

Exhibit B

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----)
5 SET CAPITAL LLC, et al.,)
6)

7 Individually and on Behalf of)
8)

9 All Others Similarly Situated,)
10)

11 Plaintiffs,)
12)

13 vs.)

No. 18-cv-02268-AT-SN

14 CREDIT SUISSE GROUP AG, CREDIT)
15)

16 SUISSE AG, CREDIT SUISSE)
17)

18 INTERNATIONAL, TIDJANE THIAM,)
19)

20 DAVID R. MATHERS, JANUS)
21)

22 HENDERSON GROUP PLC, JANUS)
23)

24 INDEX & CALCULATION SERVICES)
25)

LLC, and JANUS DISTRIBUTORS)
LLC d/b/a JANUS HENDERSON)
DISTRIBUTORS,)
Defendants.)
-----)

REMOTE VIDEOTAPED DEPOSITION OF LEONARDO MAYER

February 2, 2023

Volume 1

Reported by: ANITA SHEMIN, CSR

JOB NO. 222284

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 Thursday, February 2, 2023</p> <p>10 9:53 a.m.</p> <p>11</p> <p>12</p> <p>13</p> <p>14 REMOTE VIDEOTAPED DEPOSITION OF</p> <p>15 LEONARD MAYER, Volume I, before Anita Shemin,</p> <p>16 a Certified Shorthand Reporter and Notary</p> <p>17 Public of the State of New York.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 Cohen Milstein Sellers & Toll</p> <p>5 Attorneys for Plaintiffs</p> <p>6 1100 New York Avenue</p> <p>7 Washington, DC 20005</p> <p>8 BY: Brendan Schneiderman, Esq.</p> <p>9 Robert Dumas, Esq.</p> <p>10</p> <p>11 Mark A. Strauss Law</p> <p>12 Mark Strauss, Esq. (NOT PRESENT}</p> <p>13 Attorney for Plaintiff The Stone</p> <p>14 Family Trust in Case No. 19 Civ 5192</p> <p>15 590 Madison Avenue</p> <p>16 New York, New York 10022</p> <p>17 Kirby McInerney</p> <p>18 Attorneys for Plaintiff The STONE</p> <p>19 250 Park Avenue</p> <p>20 New York, NY 10177</p> <p>21 BY: Belden Nago, Esq.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 4</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 Cahill Gordon & Reindel</p> <p>5 Attorneys for Defendants and Witness</p> <p>6 32 Old Slip</p> <p>7 New York, NY 10005</p> <p>8 BY: Herbert Washer, Esq.</p> <p>9 Lauren Riddell, Esq.</p> <p>10</p> <p>11 ALSO PRESENT: S. HANSON</p> <p>12 MANUEL GARCIA, Videographer</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1</p> <p>2</p> <p>3</p> <p>4 IT IS HEREBY STIPULATED AND AGREED by</p> <p>5 and between the attorneys for the</p> <p>6 respective parties herein, that filing and</p> <p>7 sealing be and the same are hereby waived.</p> <p>8 IT IS FURTHER STIPULATED AND AGREED</p> <p>9 that all objections, except as to the form</p> <p>10 of the question, shall be reserved to the</p> <p>11 time of the trial.</p> <p>12 IT IS FURTHER STIPULATED AND AGREED</p> <p>13 that the within deposition may be sworn to</p> <p>14 and signed before any officer authorized</p> <p>15 to administer an oath, with the same force</p> <p>16 and effect as if signed and sworn to</p> <p>17 before the Court.</p> <p>18 - o0o -</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 6</p> <p>1 LEONARDO MAYER</p> <p>2 THE VIDEOGRAPHER: Good morning. My name</p> <p>3 is Manuel Garcia. I am a certified legal</p> <p>4 videographer in association with TSG Reporting,</p> <p>5 Inc.</p> <p>6 Because this is a remote deposition, I</p> <p>7 will not be in the same room as the witness;</p> <p>8 instead, I will record this videotaped</p> <p>9 deposition remotely.</p> <p>10 The reporter, Anita Shemin, also will not</p> <p>11 be in the same room and will swear the witness</p> <p>12 remotely.</p> <p>13 Do all parties stipulate to the validity</p> <p>14 of this video recording and remote swearing,</p> <p>15 and that it will be admissible in the courtroom</p> <p>16 following Rule 30 of the Federal Rules of Civil</p> <p>17 Procedure and the state rules where this case</p> <p>18 is pending?</p> <p>19 MR. SCHNEIDERMAN: Yes.</p> <p>20 MR. WASHER: Yes.</p> <p>21 THE VIDEOGRAPHER: This is the start of</p> <p>22 Media No. 1 of the Videotaped Deposition of</p> <p>23 Leonardo Mayer in the matter of Set Capital</p> <p>24 LLC, et al. versus Credit Suisse Group, AG, et</p> <p>25 al., on February 2nd, 2023, at approximately</p>	<p style="text-align: right;">Page 7</p> <p>1 LEONARDO MAYER</p> <p>2 9:53 a.m.</p> <p>3 My name is Manuel Garcia. I am the</p> <p>4 certified legal videographer with TSG</p> <p>5 Reporting, Inc. The court reporter is Anita</p> <p>6 Shemin, in association with TSG Reporting.</p> <p>7 Counsel, please introduce yourselves.</p> <p>8 MR. SCHNEIDERMAN: Brendan Schneiderman,</p> <p>9 for the Plaintiffs.</p> <p>10 MR. WASHER: Herb Washer, for the</p> <p>11 Defendants, as well as the witness, Leo Mayer.</p> <p>12 THE VIDEOGRAPHER: Will the court reporter</p> <p>13 please swear in the witness.</p> <p>14 L E O N A R D O M A Y E R,</p> <p>15 The Witness, having been first duly sworn, was</p> <p>16 examined and testified as follows:</p> <p>17 EXAMINATION</p> <p>18 BY MR. SCHNEIDERMAN:</p> <p>19 Q. Good morning, Mr. Mayer.</p> <p>20 A. Good morning.</p> <p>21 Q. My apologies for the slow start here.</p> <p>22 Thanks for your patience.</p> <p>23 Have you ever been deposed before?</p> <p>24 A. I have not.</p> <p>25 Q. Okay. So I am going to start by just</p>
<p style="text-align: right;">Page 8</p> <p>1 LEONARDO MAYER</p> <p>2 going over some of the ground rules.</p> <p>3 So, as you can see, there's a court</p> <p>4 reporter writing down everything that we say. It's</p> <p>5 important that you give verbal answers rather than</p> <p>6 gestures, no mm-hmms or uh-uhs.</p> <p>7 Do you understand?</p> <p>8 A. Understood.</p> <p>9 Q. Okay. It's also important that you and I</p> <p>10 not talk over each other, so please wait to answer</p> <p>11 until I have completed each question, and I will try</p> <p>12 my best to not interrupt your answers, okay?</p> <p>13 A. Okay.</p> <p>14 Q. Also, if you ever feel like you don't</p> <p>15 fully understand a question that I have asked, just</p> <p>16 let me know, and I will try to clarify, okay?</p> <p>17 A. Got it.</p> <p>18 Q. And your attorney may object to questions</p> <p>19 that I ask, but unless he instructs you not to</p> <p>20 answer, you have to answer my question, okay?</p> <p>21 A. Got it.</p> <p>22 Q. And finally, as long as there isn't a</p> <p>23 question pending, please let me know if you need a</p> <p>24 break at any time. We will try to do it about every</p> <p>25 hour or so, but if you need something else, just let</p>	<p style="text-align: right;">Page 9</p> <p>1 LEONARDO MAYER</p> <p>2 us know.</p> <p>3 A. Okay.</p> <p>4 Q. Do you have any lawyers with you today?</p> <p>5 A. Yes, I do.</p> <p>6 Q. Who is representing you?</p> <p>7 A. Herb Washer and the team at Cahill, as</p> <p>8 well as, I think, Sarah Hanson, who is from Credit</p> <p>9 Suisse.</p> <p>10 Q. Is there anyone else in the room with you</p> <p>11 right now?</p> <p>12 A. In my room, no.</p> <p>13 Q. Yes.</p> <p>14 A. No. I am in an office here at Credit</p> <p>15 Suisse.</p> <p>16 Q. Okay. If anyone enters the room at any</p> <p>17 time, can you let me know?</p> <p>18 A. I will.</p> <p>19 Q. And do you have anything on your screen</p> <p>20 except for this Zoom and the AgileLaw window?</p> <p>21 A. Just those two things.</p> <p>22 Q. Okay. Can we agree that you won't have</p> <p>23 anything else on your screen except for those two</p> <p>24 during the deposition?</p> <p>25 A. Yes.</p>

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1 LEONARDO MAYER

2 Q. And if you get interrupted by anything

3 else, you will let me know?

4 A. I will.

5 Q. Okay. Do you have your phone on you?

6 A. Yes.

7 Q. Can we agree that you won't look at your

8 phone during the deposition unless we are on a

9 break?

10 A. Okay. I will put this where I can't get

11 it.

12 Q. And if you receive a call that you need to

13 take, we can take a break, just let me know.

14 A. Okay.

15 Q. Also, if you speak with anyone other than

16 counsel during a break, will you let me know?

17 A. I will.

18 Q. You understand that even though this is a

19 deposition over Zoom, you are still under oath and

20 have to answer the questions truthfully under the

21 penalty of perjury?

22 A. I understand.

23 Q. Can you think of anything that may affect

24 your ability to testify today?

25 A. No.

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1 LEONARDO MAYER

2 about the deposition today?

3 A. No.

4 Q. Did you do anything else to prepare for

5 today's deposition?

6 A. No.

7 Q. And did you bring any documents with you

8 today to the deposition?

9 A. No.

10 Q. Okay. So you currently work at Credit

11 Suisse?

12 A. I do.

13 Q. And what are your responsibilities in your

14 current role?

15 A. My role is to manage the index flow

16 trading team, which is a team of traders that make

17 markets and index options in the U.S.

18 Q. Are you personally involved in trading, or

19 is it mostly managerial?

20 A. No, I am involved in trading.

21 Q. And so what are some of the financial

22 instruments that you are involved in trading?

23 A. We trade options on the S&P 500 and other

24 indices in the U.S., as well as UTF options and

25 options on the vega.

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1 LEONARDO MAYER

2 Q. Finally, you understand that you are not a

3 Defendant in this matter, correct?

4 A. I understand, yes.

5 Q. The investors I represent are suing Credit

6 Suisse and its former CEO and CFO and not you.

7 Do you understand that?

8 A. I do.

9 Q. Great.

10 What did you do to prepare for today's

11 deposition?

12 A. I met with the Cahill lawyers.

13 Q. About how many times did you meet?

14 A. We met for a couple of hours yesterday.

15 Q. That was it?

16 A. That was it.

17 Q. Without telling me what the documents

18 contained, did you review any documents in

19 preparation for the deposition?

20 A. Yes.

21 Q. Did any of those documents refresh your

22 memory about your involvement in Credit Suisse's

23 trading and hedging activity with respect to XIV?

24 A. They did not refresh my memory.

25 Q. Did you speak to anyone aside from counsel

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1 LEONARDO MAYER

2 Q. Is Credit Suisse paying for your lawyer?

3 A. Yes.

4 Q. Do you have any agreements with Credit

5 Suisse including, but not limited to,

6 nondisparagement clauses or nondisclosure agreements

7 that would prevent your ability to fully and

8 truthfully testify today?

9 A. I am not sure what that means exactly.

10 Q. You know what an NDA is?

11 A. Yes.

12 Q. Have you signed any NDAs that would

13 prevent you from being able to speak about your

14 involvement with XIV?

15 A. I have not.

16 Q. Okay. When did you start working at

17 Credit Suisse?

18 A. I started working in, I believe, April of

19 2016.

20 Q. What was your title when you started?

21 A. My title was a director.

22 Q. Director in index flow trading?

23 A. Yes, a very similar role.

24 Q. Do you have any sense of why you were

25 hired by Credit Suisse?

<p style="text-align: right;">Page 14</p> <p>1 LEONARDO MAYER</p> <p>2 A. I was hired to build out their index flow</p> <p>3 trading business.</p> <p>4 Q. Do you remember if you applied for a job</p> <p>5 or if you were recruited?</p> <p>6 A. I was recruited. Yes, I was recruited,</p> <p>7 but I eventually applied for the job there. There</p> <p>8 was another trader -- there were several traders</p> <p>9 here that any one of them, which was Dan McNeill.</p> <p>10 Q. Is he still at Credit Suisse?</p> <p>11 A. He is not.</p> <p>12 Q. So you mentioned that your role, when you</p> <p>13 started, was very similar to your current role.</p> <p>14 How were they different, if at all?</p> <p>15 A. My role had just become more senior over</p> <p>16 time as we have expanded the team, but in terms of</p> <p>17 the products traded, it is similar.</p> <p>18 Q. Okay. And what does more seniority</p> <p>19 entail?</p> <p>20 A. More seniority entails, you know,</p> <p>21 management of the team and does general ownership of</p> <p>22 the business.</p> <p>23 Q. Okay. Did you have any other titles in</p> <p>24 your time at Credit Suisse, or has it just been</p> <p>25 director and then manager?</p>	<p style="text-align: right;">Page 15</p> <p>1 LEONARDO MAYER</p> <p>2 A. Just those two.</p> <p>3 Q. Do you know when the title changed?</p> <p>4 A. I think I was promoted. I don't recall</p> <p>5 the exact year, but maybe 2019.</p> <p>6 Q. Okay. How was your compensation</p> <p>7 structured in 2017?</p> <p>8 A. I don't recall anything specific of how it</p> <p>9 was structured, but are you asking me in terms of</p> <p>10 the split between stock and cash, or what are you</p> <p>11 referring to?</p> <p>12 Q. I think at a higher level, the split</p> <p>13 between -- I am assuming you had a base salary and</p> <p>14 some kind of bonus, something like that?</p> <p>15 A. Yes.</p> <p>16 Q. So how was that bonus determined?</p> <p>17 A. The bonus was determined based on the</p> <p>18 performance of the index flow trading team, as well</p> <p>19 as the performance of the Equity Derivatives</p> <p>20 business and the larger CS group and based on, you</p> <p>21 know, being within all regulatory requirements.</p> <p>22 Q. How did your bonus compare to your salary</p> <p>23 percentage wise?</p> <p>24 A. I don't recall the exact specifics, but I</p> <p>25 would think that the salary was between -- was</p>
<p style="text-align: right;">Page 16</p> <p>1 LEONARDO MAYER</p> <p>2 probably around one-third of the compensation, total</p> <p>3 compensation.</p> <p>4 Q. Do you have a general sense of what your</p> <p>5 bonus was in 2017?</p> <p>6 A. I don't recall the exact number, but it</p> <p>7 would have been about one and a half million.</p> <p>8 Q. How about 2018?</p> <p>9 A. Around similar levels, but I don't</p> <p>10 remember the exact numbers.</p> <p>11 Q. All right. That's fine. I won't hold you</p> <p>12 to it.</p> <p>13 So between 2017 -- let's say the start of</p> <p>14 2017 and February of 2018, who were your bosses?</p> <p>15 A. In 2017 -- around that time, my bosses</p> <p>16 were Robert Sowler and as well as Philippe Carrier.</p> <p>17 Q. In 2018, did that change, the first couple</p> <p>18 of months?</p> <p>19 A. I don't recall. There were some changes</p> <p>20 in the reporting line, but it would have been one of</p> <p>21 the two. I can't remember if it was Philippe or</p> <p>22 Robert Sowler that I reported to at the time, but</p> <p>23 they would have been the senior traders on the team.</p> <p>24 Q. How about Michael Ebert?</p> <p>25 A. Michael Ebert is the head of the equities</p>	<p style="text-align: right;">Page 17</p> <p>1 LEONARDO MAYER</p> <p>2 driven business, so he would have been the boss of</p> <p>3 my bosses.</p> <p>4 Q. So how often did you interact with</p> <p>5 Mr. Sowler and Mr. Carrier?</p> <p>6 A. On a regular basis.</p> <p>7 Q. Is that every day, multiple times a day?</p> <p>8 A. It could be certainly every day and</p> <p>9 multiple times a day potentially, yes.</p> <p>10 Q. What was your usually mode of</p> <p>11 communication?</p> <p>12 A. We could speak either on the phone or in</p> <p>13 person. Philippe was in London, so it mostly was on</p> <p>14 the phone and perhaps also on chat.</p> <p>15 Q. How about email?</p> <p>16 A. Oh, yes, email, of course, as well.</p> <p>17 Q. Okay. When you emailed your bosses, were</p> <p>18 you careful to ensure the accuracy of any analysis</p> <p>19 that was contained in your email?</p> <p>20 A. Yes.</p> <p>21 Q. If you discovered mistakes in your emails,</p> <p>22 would you follow-up to correct them?</p> <p>23 A. If I had, I would imagine that I would</p> <p>24 have, yes.</p> <p>25 Q. Can you think of an instance where you</p>

<p style="text-align: right;">Page 18</p> <p>1 LEONARDO MAYER</p> <p>2 noticed a mistake and didn't reach out to correct</p> <p>3 it?</p> <p>4 A. I can't remember that, no.</p> <p>5 Q. Okay. If your bosses discovered any</p> <p>6 issues in your analyses, would they reach out to</p> <p>7 follow-up?</p> <p>8 A. I would -- I don't recall them doing that,</p> <p>9 but I would have imagined that they would have.</p> <p>10 Q. Did you ever withhold significant</p> <p>11 market-related information from your bosses?</p> <p>12 A. No.</p> <p>13 Q. Were you ever dishonest about the</p> <p>14 information that you passed to your superiors?</p> <p>15 A. No.</p> <p>16 Q. Did your bosses trust you?</p> <p>17 A. I think they did, yes.</p> <p>18 Q. Why do you think that?</p> <p>19 A. There was nothing that made me think that</p> <p>20 they did not, and I have always operated under full</p> <p>21 honesty.</p> <p>22 Q. Okay. If your superiors asked you to</p> <p>23 track down the answer to a question, you would do</p> <p>24 so?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 19</p> <p>1 LEONARDO MAYER</p> <p>2 Q. And you would use the most accurate</p> <p>3 available information to do so?</p> <p>4 A. Yes.</p> <p>5 Q. Did you have access to a Bloomberg</p> <p>6 terminal?</p> <p>7 A. Yes.</p> <p>8 Q. Is that one source of information that you</p> <p>9 would use?</p> <p>10 A. Yes, it is.</p> <p>11 Q. Okay. And did you ever use off-channel</p> <p>12 messaging apps, like WhatsApp or Signal or Facebook</p> <p>13 Messenger to discuss work-related matters?</p> <p>14 A. No.</p> <p>15 Q. Do you have any memory of any of your</p> <p>16 colleagues doing so?</p> <p>17 A. No.</p> <p>18 Q. So, who from the Global Markets team would</p> <p>19 you say had primary responsibility for XIV in 2018?</p> <p>20 A. The Global Markets team?</p> <p>21 Q. Yes.</p> <p>22 A. So the product was risk managed out of our</p> <p>23 index flow trading business, and then overseeing</p> <p>24 that index flow trading business was the global head</p> <p>25 of flow, which at the time was either Rob Sowler or</p>
<p style="text-align: right;">Page 20</p> <p>1 LEONARDO MAYER</p> <p>2 Philippe, which I had mentioned, and then overseeing</p> <p>3 that was the Global Head of Equity Derivatives,</p> <p>4 Michael Ebert.</p> <p>5 Q. Who is Michael Ebert's boss, do you</p> <p>6 recall?</p> <p>7 A. Who did Michael Ebert report up to? I</p> <p>8 don't recall the org structure at that point, but it</p> <p>9 probably would have been the head of the investment</p> <p>10 bank or some other...</p> <p>11 Q. Was it Mike Stewart?</p> <p>12 A. Yes, that's possible, yes. As the head of</p> <p>13 equities, yes.</p> <p>14 Q. And who did Mike Stewart report to, do you</p> <p>15 know?</p> <p>16 A. Michael would have reported up to maybe</p> <p>17 Brian Chin, who was the head of the investment bank.</p> <p>18 Q. Okay. So within the flow desk, how was</p> <p>19 responsibilities for XIV organized? I know that's</p> <p>20 kind of a general question, but to the extent that</p> <p>21 you can paint a picture for me of how responsibility</p> <p>22 was divvied up?</p> <p>23 A. Sure.</p> <p>24 We had -- the XIV was -- the day-to-day</p> <p>25 management of the rehedging and other trade-related</p>	<p style="text-align: right;">Page 21</p> <p>1 LEONARDO MAYER</p> <p>2 activities was handled by Mel Oechslein, and I worked</p> <p>3 on Mel with that closely supervising it as well.</p> <p>4 Q. Did you have a sense of how much revenue</p> <p>5 XIV generated for Credit Suisse in, say, 2017?</p> <p>6 A. I don't recall the exact numbers, but I</p> <p>7 think the trading P&Ls were on the order of 20 to</p> <p>8 25 million --</p> <p>9 Q. Okay.</p> <p>10 A. -- on an annual basis.</p> <p>11 Q. Okay.</p> <p>12 MR. SCHNEIDERMAN: Rob, can we pull up</p> <p>13 Tab BJ.</p> <p>14 Q. So, Mr. Mayer, we are going to start</p> <p>15 looking at documents on AgileLaw. Tell me if you</p> <p>16 have any issues --</p> <p>17 A. Okay.</p> <p>18 Q. -- as we pull the document up.</p> <p>19 A. Okay.</p> <p>20 Q. And we have been marking the exhibits in</p> <p>21 series. Some of these exhibits have already been</p> <p>22 introduced, but this is a new one, so this is going</p> <p>23 to be marked as Exhibit 155.</p> <p>24 (5/8/17 email between Leonardo Mayer and</p> <p>25 James Cheesbrough marked Exhibit 155 for</p>

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1 LEONARDO MAYER
2 identification, as of this date.)
3 A. Okay. So I believe I click on this.
4 Okay, here we are.
5 Q. There's not much to this first one, but
6 can you see it okay?
7 A. Yes. It says, "Take a look."
8 Q. Do you recognize this document?
9 A. I do not.
10 Q. Do you have any reason to doubt it's an
11 email between you and James Cheesbrough from
12 May 8th, 2017?
13 A. I don't have any reason to doubt that it
14 is an email between us, no.
15 Q. Just so you know, I am going to have to
16 ask those questions with all of the documents I show
17 you. So I understand it's going to feel repetitive,
18 but it's just for the record.
19 A. Got it.
20 Q. Okay. So you can see there's an
21 attachment to this email, the Flow Index Overview
22 Final PowerPoint.
23 Do you see that?
24 A. There's an attachment -- I don't see that.
25 Q. We will pull up the attachment in the next

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1 LEONARDO MAYER
2 I am going to direct your attention to
3 Slide 9.
4 A. Okay. Page 9, okay.
5 Q. Okay. Do you recognize this document?
6 A. I don't recall this document, no.
7 Q. Okay. So this --
8 A. This is from May 2017, okay.
9 Q. Right, correct.
10 A. You said we are focusing on Page 9?
11 Q. Correct.
12 A. Okay.
13 Q. So the title of this slide is "Client
14 Revenue Trends."
15 Can you explain to me what client revenue
16 is?
17 A. Client revenue is the revenue associated
18 to a particular client that is a trading partner
19 of -- with Credit Suisse.
20 Q. Okay. And then in that first bullet
21 point, it says, "Flow Sales Headcount."
22 Do you see that?
23 A. Yes, I do.
24 Q. What is "Flow Sales Headcount"?
25 A. That refers to the number of people in the

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1 LEONARDO MAYER
2 document. I just want to make sure that you can see
3 that there is that attachment.
4 A. On this particular item?
5 Q. If you just look next to attachments, it
6 says "Flow Index Overview File."
7 A. You are saying on, like, the subject line,
8 right?
9 Q. Correct, yes.
10 A. Okay, yes.
11 Q. Yes?
12 A. I can see that.
13 Q. Okay.
14 MR. SCHNEIDERMAN: Can we pull up Tab BK.
15 And this is Exhibit 156.
16 (May 2017 document marked Exhibit 156 for
17 identification, as of this date.)
18 BY MR. SCHNEIDERMAN:
19 Q. So this is -- this is that attachment.
20 A. Okay. I am going to click on this?
21 Q. Yes.
22 A. Okay.
23 Q. So feel free to look it over. We are not
24 going to dive too deeply into it. If you want to
25 just take a look at it.

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1 LEONARDO MAYER
2 flow sales team.
3 Q. So the number of employees on the team at
4 Credit Suisse?
5 A. Yes. Yes, I believe so, yes.
6 Q. Okay. And so that first bullet point says
7 that the headcount is down 53 percent versus 2014
8 and about 30 percent versus 2015 and 2016?
9 A. Yes.
10 Q. Okay. So that means that just the literal
11 number of employees working on flow sales is down
12 those percentages?
13 A. That's how I understand it, right.
14 Q. Okay. And then if we look at the bottom
15 of the slide, it says, "CREV Booked into Flow
16 Derivatives."
17 Do you see that?
18 A. Yes.
19 Q. And you see there's a "Grand Total" row.
20 What is the capturing?
21 A. It looks like it's the total client
22 revenue in each year per trading desk.
23 Q. So in 2014, it's almost 40 million,
24 correct?
25 A. In index flow, yes.

<p style="text-align: right;">Page 26</p> <p>1 LEONARDO MAYER</p> <p>2 Q. For flow index, yes, sorry.</p> <p>3 And that's your desk?</p> <p>4 A. Yes.</p> <p>5 I wasn't here at the time, but, yes.</p> <p>6 Q. Right.</p> <p>7 2015, it's almost 55 million?</p> <p>8 A. Yes.</p> <p>9 Q. Correct?</p> <p>10 2016, it's almost 49 million, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And so then for 2017, I believe it says</p> <p>13 2017 annualized; is that correct?</p> <p>14 A. That's what it appears, yes.</p> <p>15 Q. And it's 26 million, right?</p> <p>16 A. That's correct.</p> <p>17 Q. So it's down fairly dramatically in 2017;</p> <p>18 is that a fair characterization?</p> <p>19 A. Yes.</p> <p>20 MR. SCHNEIDERMAN: We can move away from</p> <p>21 that document now. Thanks.</p> <p>22 Q. So beginning in August of 2017, would you</p> <p>23 say there was an increased focus on index-related</p> <p>24 products for the desk?</p> <p>25 MR. WASHER: Objection.</p>	<p style="text-align: right;">Page 27</p> <p>1 LEONARDO MAYER</p> <p>2 A. I don't recall that specifically.</p> <p>3 Q. You mentioned Mel Oechslin before?</p> <p>4 A. Yes.</p> <p>5 Q. Who is he?</p> <p>6 A. Mel is the trader, no longer with Credit</p> <p>7 Suisse, who was part of the index flow team and</p> <p>8 focused a lot on these products.</p> <p>9 Q. And he was brought on in August 2017; does</p> <p>10 that sound right?</p> <p>11 A. That sounds about right, yes.</p> <p>12 Q. Okay. In your experience with</p> <p>13 Mr. Oechslin, was he capable at his job?</p> <p>14 A. Yes.</p> <p>15 Q. If you asked him to conduct an analysis,</p> <p>16 would he provide it?</p> <p>17 A. Yes.</p> <p>18 Q. Would he do so in a timely manner?</p> <p>19 A. Yes, he would.</p> <p>20 Q. And his analyses were generally accurate?</p> <p>21 A. Yes.</p> <p>22 Q. If you spotted a mistake in his analysis,</p> <p>23 would you point it out?</p> <p>24 A. I would have, yes.</p> <p>25 Q. Did you ever have any experiences with him</p>
<p style="text-align: right;">Page 28</p> <p>1 LEONARDO MAYER</p> <p>2 where he would withhold material information from</p> <p>3 you or the rest of the team?</p> <p>4 A. No, no. I did not, no.</p> <p>5 MR. SCHNEIDERMAN: Let's pull up Tab M,</p> <p>6 which was previously marked as Exhibit 91.</p> <p>7 THE WITNESS: I am sorry, I am going to</p> <p>8 tab which one? Oh, Exhibit 91, okay.</p> <p>9 BY MR. SCHNEIDERMAN:</p> <p>10 Q. Yes.</p> <p>11 A. Okay, I see an email here.</p> <p>12 Q. Okay, great.</p> <p>13 Do you recognize this email?</p> <p>14 A. I don't remember it now.</p> <p>15 Q. Okay. If you look, the second email, you</p> <p>16 will see that -- do you have any reason to doubt</p> <p>17 that that email is from Mel Oechslin to Philippe</p> <p>18 Carrier with you cc'ed from August 30, 2017?</p> <p>19 A. No, no, I don't.</p> <p>20 Q. And if we -- if we look at the second page</p> <p>21 of the document --</p> <p>22 A. Okay.</p> <p>23 Q. Sorry, one second.</p> <p>24 At the bottom of the first page, you can</p> <p>25 see first there's an email from Mr. Carrier to Mel</p>	<p style="text-align: right;">Page 29</p> <p>1 LEONARDO MAYER</p> <p>2 Oechslin with you cc'ed.</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. So this is that same period we are</p> <p>6 talking about, August 2017.</p> <p>7 And so then if you go to the second page,</p> <p>8 that last line in Mr. Carrier's email, "I understand</p> <p>9 Mike Ebert was a VIX specialist at BAML..."</p> <p>10 I take it that means Bank of</p> <p>11 America/Merrill Lynch?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. "I understand Mike Ebert was a VIX</p> <p>14 specialist at BAML, so I suspect you will be" -- it</p> <p>15 seems like there's a typo here -- "you will be one</p> <p>16 of his main focus of attention"?</p> <p>17 A. Yes.</p> <p>18 Q. Does that refresh your memory at all about</p> <p>19 the desk's focus starting around August 2017?</p> <p>20 A. No, it does not.</p> <p>21 Q. Okay.</p> <p>22 MR. SCHNEIDERMAN: Let's pull up Tab BM, M</p> <p>23 as in Mary.</p> <p>24 THE WITNESS: You said BM?</p> <p>25</p>

<p style="text-align: right;">Page 30</p> <p>1 LEONARDO MAYER</p> <p>2 BY MR. SCHNEIDERMAN:</p> <p>3 Q. It looks like it's 38 in AgileLaw.</p> <p>4 A. Okay.</p> <p>5 What are we looking at here, Document 157?</p> <p>6 Q. Correct.</p> <p>7 MR. SCHNEIDERMAN: This is Exhibit 157.</p> <p>8 (9/2017 email chain between Leonardo</p> <p>9 Mayer, Michael Ebert, and Philippe Carrier</p> <p>10 marked Exhibit 157 for identification, as of</p> <p>11 this date.)</p> <p>12 THE WITNESS: Okay.</p> <p>13 BY MR. SCHNEIDERMAN:</p> <p>14 Q. Do you recognize this document?</p> <p>15 A. Again, I don't remember it specifically,</p> <p>16 but there's nothing to make me think that it's not</p> <p>17 an accurate document, a real document.</p> <p>18 Q. Okay.</p> <p>19 All right. It's an email exchange between</p> <p>20 you and Michael Ebert and Philippe Carrier from</p> <p>21 September 2017?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And Mr. Ebert asks you to forward</p> <p>24 him a copy of the presentation from last week.</p> <p>25 Do you see that at the bottom?</p>	<p style="text-align: right;">Page 31</p> <p>1 LEONARDO MAYER</p> <p>2 A. Yes.</p> <p>3 MR. SCHNEIDERMAN: Let's go to Tab BN, N</p> <p>4 as in Nancy, which is the attached</p> <p>5 presentation.</p> <p>6 THE WITNESS: Document 158?</p> <p>7 MR. SCHNEIDERMAN: Correct.</p> <p>8 (PowerPoint titled "Equity Derivatives</p> <p>9 Flow Index Midyear Review 2017" marked</p> <p>10 Exhibit 158 for identification, as of this</p> <p>11 date.)</p> <p>12 A. Okay.</p> <p>13 Q. Do you recognize this document?</p> <p>14 A. I don't recall it, but, again, there's</p> <p>15 nothing that makes me think that it's not a real</p> <p>16 document.</p> <p>17 Q. Okay. So this is a PowerPoint titled,</p> <p>18 "Equity Derivatives Flow Index Midyear Review 2017"?</p> <p>19 A. Yes.</p> <p>20 Q. And I think the PowerPoint just</p> <p>21 automatically updates to today's date, so that's why</p> <p>22 it says February 2023 there at the bottom.</p> <p>23 A. Okay.</p> <p>24 Q. But this is from 2017.</p> <p>25 So, if you recall, the email we just</p>
<p style="text-align: right;">Page 32</p> <p>1 LEONARDO MAYER</p> <p>2 looked at mentioned the presentation from last week</p> <p>3 that was sent in September, so is it fair to assume</p> <p>4 that this presentation was circulated or presented</p> <p>5 in September?</p> <p>6 A. I am not certain, but it sounds like it,</p> <p>7 yes.</p> <p>8 MR. SCHNEIDERMAN: Okay. Let's go to</p> <p>9 Slide 4.</p> <p>10 THE WITNESS: Okay.</p> <p>11 BY MR. SCHNEIDERMAN:</p> <p>12 Q. I want to turn your attention to the</p> <p>13 bottom right corner. You see that it says, "Sales</p> <p>14 and trading desks suffered from low staffing level"?</p> <p>15 A. Yes.</p> <p>16 Q. Is that the same thing we were looking at</p> <p>17 before with the headcount?</p> <p>18 MR. WASHER: Objection to the form.</p> <p>19 A. It appears that it is.</p> <p>20 Q. Okay. And it also notes that "Low</p> <p>21 margin/increased competition environment has led to</p> <p>22 lower client revenue retention on large trades"?</p> <p>23 A. Yes.</p> <p>24 What about that?</p> <p>25 Q. I am just confirming that that is what</p>	<p style="text-align: right;">Page 33</p> <p>1 LEONARDO MAYER</p> <p>2 that is saying.</p> <p>3 A. Yes, got it.</p> <p>4 Q. So this is saying lower margins and</p> <p>5 increased competition are reducing client revenue in</p> <p>6 large trades?</p> <p>7 A. Right.</p> <p>8 Q. Okay.</p> <p>9 MR. SCHNEIDERMAN: Let's look at Slide 5.</p> <p>10 THE WITNESS: Okay.</p> <p>11 BY MR. SCHNEIDERMAN:</p> <p>12 Q. Is this laying out the target revenues for</p> <p>13 2018 by book? Am I interpreting that right?</p> <p>14 A. Yes.</p> <p>15 Q. And so it says for VIX ETNs, the target</p> <p>16 revenue for 2018 is \$50 million?</p> <p>17 A. Right.</p> <p>18 MR. SCHNEIDERMAN: Let's go to Slide 10.</p> <p>19 THE WITNESS: Okay.</p> <p>20 BY MR. SCHNEIDERMAN:</p> <p>21 Q. So the title of this slide is, "What Are</p> <p>22 We Doing to Improve Profitability," correct?</p> <p>23 A. Yes.</p> <p>24 Q. So it seems like the profitability of the</p> <p>25 desk is a concern at this time; is that right?</p>

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2 MR. WASHER: Objection to the form.

3 A. Yes.

4 Q. Who would have made this presentation?

5 MR. WASHER: Objection to the form.

6 A. I don't remember exactly.

7 Q. Do you have a sense of which teams would

8 contribute to it?

9 MR. WASHER: Same objection.

10 A. Sorry?

11 Q. Your counsel was just objecting. You can

12 answer.

13 A. My -- I don't remember exactly who worked

14 on it, but it would have had input from the trading

15 team, as well as from the COO team, the Chief

16 Operating Officer and their team.

17 Q. And who would it be for?

18 A. Who would it be for? It would have been

19 for -- you know, I don't recall who we did it for,

20 but -- yes, I don't recall who we did it for.

21 Q. In general, these kinds of midyear

22 reviews, I mean, who were those circulated to?

23 A. It would potentially have been for more

24 senior management or a general discussion about the

25 business.

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1 LEONARDO MAYER

2 Tab G.

3 Q. This was previously marked as Exhibit 85.

4 A. Are you waiting on me?

5 Q. I don't think it has been put up yet.

6 MR. SCHNEIDERMAN: Rob, are you able to

7 put up the document? Thanks.

8 THE WITNESS: Okay.

9 BY MR. SCHNEIDERMAN:

10 Q. Let me know when you can see it.

11 A. Yes.

12 Okay.

13 Q. Do you recognize this document?

14 A. I don't recognize it, but, again, there's

15 nothing that leads me to believe that it's not an

16 actual document.

17 Q. Okay. So this is an email from 2017

18 involving you and also Michael Ebert; is that

19 correct?

20 A. Yes. I am cc'ed on this email, correct.

21 Q. And if you look at the second paragraph

22 there from Paul Somma, you see where he says, "As

23 you know, XIV is not a highly profitable ETN"?

24 A. Where is that?

25 Okay, the second paragraph.

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1 LEONARDO MAYER

2 Q. And what was the point of circulating this

3 kind of information to senior management?

4 A. Review of the business, as you would

5 imagine, I would imagine, you would typically have

6 in any business line.

7 Q. So if we -- you can take my word for it or

8 we can look back to the previous email, but this

9 presentation, you sent this along to Michael Ebert

10 and Philippe Carrier.

11 Does that seem right?

12 A. Yes.

13 Q. What is their responsibility with this

14 information?

15 A. Well, the responsibility was they were

16 overseeing the business, and they would have wanted

17 more information in terms of what was happening in

18 the business and a general review of it.

19 Q. Is there anything that they would be

20 expected to do with it?

21 MR. WASHER: Objection to the form;

22 foundation.

23 A. I am not sure if there were any immediate

24 actions that would have resulted from the review.

25 MR. SCHNEIDERMAN: Okay. Let's pull up

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2 Okay.

3 Q. Why wasn't XIV profitable?

4 A. My impression of the product was that it

5 was profitable, not wildly profitable, but it did

6 provide some profitability to the bank.

7 Q. Why is Paul Somma saying to Mike Ebert,

8 "As you know, XIV is not a highly profitable ENT"?

9 MR. WASHER: Objection to the form;

10 foundation.

11 A. I am not sure. I have to read through the

12 rest of this email.

13 Q. If you want to look over it, you can take

14 a minute.

15 A. Okay. I don't know exactly what Paul had

16 in mind with that sentence, but I would imagine that

17 he was thinking about the costs of rebalancing the

18 hedges for the XIV product, also the split in the

19 management fee, and any other potentially, you know,

20 capital costs that would be incurred in the product,

21 but my impression was that it was profitable, but

22 not wildly profitable, again, for the firm.

23 Q. Would part of the difference be your

24 timeline here where he's talking about XIV in

25 October and you are thinking about it maybe after

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1 LEONARDO MAYER

2 that point?

3 MR. WASHER: Objection to the form;

4 foundation.

5 A. I am not sure that's the case.

6 Q. Okay. So this email is sent to a lot of

7 people.

8 Looking over who is cc'ed, how would you

9 describe this group of people?

10 MR. WASHER: Objection to the form.

11 A. Well, again, you have Michael Ebert, who

12 is the head of the business, and you have

13 stakeholders across the trading desk, as well as

14 sales and -- and sales, yes.

15 Q. Okay. Are there risk management people

16 looped in here?

17 A. No, not specifically.

18 Q. Okay. Do you have an example of a highly

19 profitable ETN for Credit Suisse?

20 A. I am not aware of an example I can provide

21 to you now.

22 Q. Okay. Do you recall around this time

23 Credit Suisse being unsure whether it wanted to keep

24 XIV around?

25 A. I don't recall that specific -- you know,

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2 economics makes sense to keep XIV"?

3 A. Yes, I read that.

4 Q. Does that refresh your recollection?

5 A. I mean, I don't remember this, the exact

6 conversation that I had with Mike, but this email

7 makes me think that, you know, we were having a

8 discussion about the general profitability of the

9 business, but it would not have been different about

10 any conversation we would have had about any

11 business or any reevaluation of any business line.

12 Q. So when you say "whether or not economics

13 makes sense," that's referring to the profitability?

14 A. Yes.

15 Q. Okay. So then you lay out some specific

16 items to follow-up on.

17 Do you see that in the second paragraph?

18 A. Yes.

19 Q. And that includes more research on lending

20 and how it works and what is keeping us from buying

21 back more in the open market?

22 A. Yes.

23 Q. Was the request for more research on

24 lending and how it works a directive that came from

25 Ebert?

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2 I don't recall that specifically because I don't --

3 Q. Okay.

4 MR. SCHNEIDERMAN: Let's pull up Tab H,

5 which has been previously marked as Exhibit 86.

6 THE WITNESS: Okay.

7 BY MR. SCHNEIDERMAN:

8 Q. Take a moment to look over this document.

9 A. Okay.

10 Q. Do you recognize it?

11 A. I do.

12 Q. What is it?

13 A. It's an email between Mike -- an email

14 between Robert Sowler and me, and then from me to

15 Rob and Mel.

16 Q. And you see for the record, and it's from

17 October 2017, correct?

18 A. Yes.

19 Q. So you see at the top, you say, "based on

20 your conversation with Mike."

21 I take that to be Mike Ebert, correct?

22 A. Yes.

23 Q. You say, "Based on your conversation with

24 Mike Ebert, you have been asked to do a lot more

25 deep thinking about ETNs and whether or not

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1 LEONARDO MAYER

2 A. I don't recall that specifically.

3 Q. Given your understanding of XIV, why would

4 looking more into lending be a specific item to

5 follow-up on after a conversation where you are

6 discussing the economics of XIV with Mike Ebert?

7 MR. WASHER: Objection to the form;

8 foundation.

9 A. Can you tell me that question again?

10 Q. Sure.

11 I guess my question is: Why does lending

12 come to mind as a specific item to follow-up on as a

13 result of a discussion about XIV's profitability?

14 What does one have to do with the other?

15 MR. WASHER: Objection to the form.

16 A. Okay. I think it goes back to what I said

17 before, which it sounds like this was a review of

18 the general profitability of the business, and one

19 of the -- one part of the business was lending of

20 the VIX ETNs, and we were -- it looks like we were

21 trying to assess -- you know, take a look at that

22 particular business line within the ETN business.

23 Q. How would you go about looking more into

24 it?

25 A. I don't remember exactly what analysis we

<p style="text-align: right;">Page 42</p> <p>1 LEONARDO MAYER</p> <p>2 did, but I guess we would have looked at the actual</p> <p>3 lending revenue that came in to start from the share</p> <p>4 that we lent out to the prime brokerage.</p> <p>5 Q. Okay. I know we started a little bit</p> <p>6 late, but you have given us over an hour of your</p> <p>7 time now. I don't know if you want to take, like, a</p> <p>8 five-minute break here. This is an okay spot for me</p> <p>9 to stop.</p> <p>10 A. That would be great. Let's take a</p> <p>11 five-minute break, and we will come back.</p> <p>12 MR. SCHNEIDERMAN: Okay. We will come</p> <p>13 back at 10:40.</p> <p>14 THE WITNESS: Okay.</p> <p>15 MR. WASHER: Can we just get a breakout</p> <p>16 room for the Defendants' side? So that's for</p> <p>17 the witness, for myself, for Sarah Hanson, and</p> <p>18 also for Lauren Riddell, and that will be true</p> <p>19 for every break. We may or may not use it, but</p> <p>20 can you set up a breakout room setup for each</p> <p>21 break?</p> <p>22 THE VIDEOGRAPHER: Hold on. Give me one</p> <p>23 second.</p> <p>24 (Recess taken)</p> <p>25 THE VIDEOGRAPHER: We are going back on</p>	<p style="text-align: right;">Page 43</p> <p>1 LEONARDO MAYER</p> <p>2 the record.</p> <p>3 MR. SCHNEIDERMAN: Can we pull up Tab D,</p> <p>4 as in dog. This was previously marked as</p> <p>5 Exhibit 82.</p> <p>6 THE WITNESS: Okay.</p> <p>7 BY MR. SCHNEIDERMAN:</p> <p>8 Q. Take a minute to just look over the email.</p> <p>9 A. Okay.</p> <p>10 Q. Do you recognize this email?</p> <p>11 A. I don't remember this email, but, yes, it</p> <p>12 sounds like -- it looks like it's an email between</p> <p>13 me and some of the rest of the sales and trading</p> <p>14 teams.</p> <p>15 Q. From August 23rd, 2017?</p> <p>16 A. Yes.</p> <p>17 Q. So, you start this conversation by noting</p> <p>18 that there has been a, quote, "large increase in XIV</p> <p>19 lending activity via prime."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. That's the prime brokerage desk?</p> <p>23 A. Yes.</p> <p>24 Q. And then you ask a bunch of questions to</p> <p>25 try to figure out, quote, "why this is happening,"</p>
<p style="text-align: right;">Page 44</p> <p>1 LEONARDO MAYER</p> <p>2 right? Do you see that?</p> <p>3 A. I do.</p> <p>4 Q. So, your first question is, "Who is</p> <p>5 driving the demand?"</p> <p>6 A. Right.</p> <p>7 Q. How would you figure that out?</p> <p>8 A. I don't remember the exact analysis that</p> <p>9 we did here, but we were trying to see if it was</p> <p>10 prime customers driving the demand or some other</p> <p>11 driver. I don't recall exactly what was the result</p> <p>12 of this analysis.</p> <p>13 Q. How would you go about answering that</p> <p>14 question?</p> <p>15 A. We would have gone back and taken a look</p> <p>16 at who was asking for -- who was asking to borrow</p> <p>17 shares or what -- if we could get any color around</p> <p>18 what was happening.</p> <p>19 Q. And is that a conversation you would have</p> <p>20 with prime brokerage, or are you able to just look</p> <p>21 up that information yourself?</p> <p>22 A. I don't recall exactly how we approached</p> <p>23 that.</p> <p>24 Q. You could do it either way?</p> <p>25 A. Could you do it either way? I guess you</p>	<p style="text-align: right;">Page 45</p> <p>1 LEONARDO MAYER</p> <p>2 could look at the open interest in Bloomberg and</p> <p>3 other things, and we could see if we had more</p> <p>4 creations for lending. I guess it would have been a</p> <p>5 combination of things.</p> <p>6 Q. Could it have been by talking to prime</p> <p>7 brokerage as well?</p> <p>8 A. Potentially.</p> <p>9 Q. Okay. You also ask, "What is the</p> <p>10 potential motivation behind the demand?"</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. How would you figure that out?</p> <p>14 A. I don't know if we had an easy way to</p> <p>15 figure that out. This would have been kind of</p> <p>16 typical of any trading-related question mark around</p> <p>17 trading, what is driving the demand of someone</p> <p>18 creating a VIX ETN to short or what is the demand</p> <p>19 for someone buying an S&P put to hedge, just trying</p> <p>20 to get general market color.</p> <p>21 Q. What are some ways that you would go about</p> <p>22 getting that market color?</p> <p>23 A. I would imagine we would have kind of</p> <p>24 tried to see if it was maybe -- what did we do? I</p> <p>25 don't know exactly what we did. I don't recall.</p>

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Q. Can you speak generally about how you would approach a problem like this -- or a question like this, rather?

A. Yes. I mean, if any -- if someone asked me about a trade and what's the general motivation behind that, one could think about, you know, if there's some dislocation in the market or some view that a customer is trying to express. Maybe there was a view that no accounts wanted to sell XIV at the moment, or, you know, again, more generally, it could have been, you know, someone looking to hedge the market, so they would buy S&P puts.

But, again, I don't recall exactly what we found and how we went about resolving this. I am not sure if the email says anything about it.

Q. You just used the words "dislocation in the market."

What does that mean?

A. If there was -- you know, if, for example -- dislocation meaning maybe, you know, the price of -- you know, the price of -- say the people -- a customer thought that the price of VIX was high, and he wanted to buy XIV to take that view or maybe they wanted to do something different.

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the day, if that in itself would have been a profitable position for how profitable it was.

Q. So in that instance, borrowing XIV is equivalent to being short XIV?

A. That's what I would have imagined they may have been doing, yes.

Q. Okay. And then you say, in that same bullet point, "Holding it" -- I think the "it" is borrowing XIV notes -- "Holding it versus long SVXY"?

A. Yes.

Q. "SVXY," is that an XIV competitor?

A. That is an ETF that is also -- yes, it's another part of the ETN exchange traded note suite of products in the market.

Q. So, is it an appropriate paraphrase to say that, quote, "Holding it versus long SVXY," is asking how the economics of holding XIV compares with the economics of holding an XIV competitor?

A. I think what I was trying to get to with this question was that, yes, one guess as to why there may have been increased lending were accounts potentially shorting XIV, borrowing it, shorting, and then hedging it by buying SVXY, but again, I

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Q. Just a disagreement between the market and a specific market participant?

A. Right. Someone would want to trade some option, or some derivative, or some other cash product to take a view on the market or potentially to hedge something.

Q. Okay. Do you recall getting an answer to the question of what is the motivation behind this --

A. I don't recall that, no.

Q. Okay. You were also asked, "What is the profitability of an HF" -- I believe that means hedge fund?

A. Yes.

Q. "What is the profitability of a hedge fund borrowing XIV at current rates and hedging/rebalancing the position nightly with futures"?

A. Right.

Q. Can you explain what that means?

A. What I think we were after here in this question is if someone came in to borrow XIV, and they would hedge the exposure with big futures, and that would involve some rebalancing at the end of

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think this is purely a question mark.

Q. And then you ask, "Why are we seeing a large increase in borrowing through prime, but nothing via creation"?

A. Yes.

Q. I take that to mean the demand is for borrowing XIV notes and not purchasing through a swap; is that right?

A. That's right.

MR. WASHER: Objection to the form.

Q. Okay. Why are you interested in that question?

A. I think just -- what I guess is we were just trying to get coloring, trying to understand what could be trading in the market and why.

Q. Do you remember getting an answer to that question?

A. I don't. Perhaps you will show me some other emails that get to the answer, but I don't recall what the conclusion was of this line of questions.

Q. Okay.

Okay. So then if we look at the top of the document, you follow-up and ask for "a review of

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2 the legal/reputational restrictions that prevent us
3 from changing the rate at which we lend XIV and
4 stopping self-creation for lending'?

5 A. Yes.

6 Q. Do you recall Credit Suisse ultimately
7 changing the rates for lending that fall?

8 A. I don't recall that, no.

9 Q. Would it surprise you to learn that Credit
10 Suisse did that?

11 A. It is possible. I don't recall what the
12 exact lending rate was for it, but, again, I think
13 this was just general thinking of, you know, we have
14 had some increase in lending or we were lending it
15 at the appropriate rate and just general thinking
16 about that line of business.

17 Q. Okay. Who would be involved in reviewing
18 the legal/reputational restrictions on changing the
19 lending rate?

20 A. I don't recall who was responsible. As I
21 see this email, it looks like I addressed it to Mel
22 maybe to look more into it, as well as Lisa, who
23 worked with Paul Somma, and the sales team.

24 Q. Okay. And what are their roles?

25 A. Paul Somma was working on the ETN sales.

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2 the previous document, but where -- where would the
3 directive to start looking into lending have come
4 from?

5 A. I think it would have -- I don't know who
6 would have been driving it other than just general,
7 you know, oversight of the business. Again, it goes
8 back to any other line of business, if you start to
9 see an increase in activity, we review why is it
10 happening, are we engaging it in the appropriate way
11 and pricing it correctly, and just general thinking.

12 So, you know, I think it would have
13 been -- you know, it looks like the questions are
14 coming from me. I don't know if there were other
15 conversations around that to more senior managers,
16 but I don't recall those specifically.

17 Q. Okay. It looks like Philippe Carrier is
18 looped into this email.

19 A. Okay.

20 Q. So, I mean -- okay. That's fine.

21 It seems like you are flagging this for
22 the group as something to look more deeply into
23 while also keeping your superiors in the loop about
24 the fact that you are going to be looking into it
25 more.

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2 Lisa worked with him as well. And Mel, we have
3 spoken about.

4 Q. Do you know who would be involved in the
5 decision to actually change the lending rate?

6 A. Well, I would imagine it would have been
7 someone in prime because they did the actual
8 physical lending, but, again, I think my question
9 was more open ended.

10 Q. If prime were to make that decision, would
11 it be based on a conversation with your desk? How
12 would that decision kind of get made?

13 A. It wouldn't have been something that our
14 desk would have necessarily driven, but, again, I
15 don't know if we got to that point. My line of
16 questioning here, as I see it here on this email, it
17 looks like we were just kind of exploring the idea,
18 look, we are getting a lot of lending, are we
19 lending it at the right rate, and let's have a
20 thought about that.

21 Q. Okay. Do you recall any other
22 conversations with Mel Oechslein or others about
23 lending at the time?

24 A. I don't recall, no.

25 Q. Okay. This is something I asked a bit on

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2 Is that the right characterization?

3 A. That sounds like it is addressed to sales
4 and trading partners, and it looks like, as you
5 mentioned, looped in Philippe and Rob as well.

6 Q. Okay.

7 MR. SCHNEIDERMAN: Can we go to Tab E,
8 please, which was previously marked as
9 Exhibit 83.

10 Q. Take a moment to look over this. I am
11 going to primarily ask about the third page.

12 A. We are on Exhibit 83?

13 Q. Correct.

14 A. I am just going to read a little bit from
15 the bottom to get the context.

16 Q. Sure.

17 I am going to ask you about the bottom,
18 but feel free to read the whole thing over.

19 A. Okay, I read that quickly. Which part are
20 we focusing on?

21 Q. Page 3.

22 A. Page 3, okay.

23 Q. First, do you recognize this email?

24 A. I don't remember it, but it does look like
25 an email between Mel and Philippe. Philippe really

<p style="text-align: right;">Page 54</p> <p>1 LEONARDO MAYER</p> <p>2 is in product control.</p> <p>3 Q. What does product control do?</p> <p>4 A. Product control has oversight of the</p> <p>5 business in terms of making sure that, you know, the</p> <p>6 trades are -- P&Ls are reported appropriately and</p> <p>7 risks are captured appropriately, that sort of</p> <p>8 thing.</p> <p>9 Q. So in this email from Mel Oechslein, he</p> <p>10 notes that XIV -- sorry, Credit Suisse has lent out</p> <p>11 north of 3 million shares of XIV to PB clients.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. That's the prime brokerage clients?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know who the prime brokerage</p> <p>17 clients were that it was being lent to?</p> <p>18 A. No.</p> <p>19 Q. How would you go about figuring that out?</p> <p>20 A. I don't know if we would have shared that</p> <p>21 type of information.</p> <p>22 Q. Okay. When you say "we," you mean between</p> <p>23 the flow desk and prime brokerage?</p> <p>24 A. Yes.</p> <p>25 MR. SCHNEIDERMAN: Let's go to Tab F,</p>	<p style="text-align: right;">Page 55</p> <p>1 LEONARDO MAYER</p> <p>2 which was previously marked as Exhibit 84.</p> <p>3 Q. Let me know when you have had a chance to</p> <p>4 look this over.</p> <p>5 A. Okay.</p> <p>6 Okay.</p> <p>7 Q. Do you recognize this document?</p> <p>8 A. I don't remember it, but it looks like an</p> <p>9 exchange between Rob Montefiore and Mel.</p> <p>10 Q. And you are cc'ed on it?</p> <p>11 A. I am as well, that is correct.</p> <p>12 Q. And it's from September 20th, 2017?</p> <p>13 A. Correct.</p> <p>14 Q. So just for the record, there's reference</p> <p>15 to BPS here.</p> <p>16 I take that to mean basis points?</p> <p>17 A. Yes.</p> <p>18 Q. So, this email is laying out the P&Ls for</p> <p>19 three different ways to create XIV, correct?</p> <p>20 A. Yes. Well, two, I think, it's saying --</p> <p>21 well, yes, without a swap, with a swap, and creating</p> <p>22 a lend, okay. Yes.</p> <p>23 Q. Can you walk me through how the creation</p> <p>24 with a swap works?</p> <p>25 A. Sure.</p>
<p style="text-align: right;">Page 56</p> <p>1 LEONARDO MAYER</p> <p>2 The customers could come in and create --</p> <p>3 basically borrow -- create shares in XIV or one of</p> <p>4 the other PMs for TVIX, and we would basically ask</p> <p>5 them to also have an offsetting swap to replicate</p> <p>6 the exposure of it.</p> <p>7 I can't remember the exact maturity of the</p> <p>8 swaps, but they were three months, or six months, or</p> <p>9 longer, but they could only essentially come in and</p> <p>10 create with a swap associated with it.</p> <p>11 Q. We are going to talk about the terms of</p> <p>12 the swaps later.</p> <p>13 A. Okay.</p> <p>14 Q. What is the functionality of that</p> <p>15 offsetting swap, from Credit Suisse's perspective?</p> <p>16 A. It hedges out the exposure that we would</p> <p>17 have in the creation of the ETN.</p> <p>18 Q. So it is --</p> <p>19 A. It's a risk mitigating function.</p> <p>20 Derivatives, exactly.</p> <p>21 Q. For Credit Suisse?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And so it looks like Rob is telling</p> <p>24 you and Mel that creating and lending is the most</p> <p>25 profitable of these three; is that right?</p>	<p style="text-align: right;">Page 57</p> <p>1 LEONARDO MAYER</p> <p>2 A. It appears that is the case, although it</p> <p>3 has been some time since I thought about this</p> <p>4 specific issue, so I would have to go back and think</p> <p>5 exactly how we came up with these numbers.</p> <p>6 Q. Setting aside how the numbers were</p> <p>7 produced, is that the bottom line conclusion that</p> <p>8 the email is conveying?</p> <p>9 A. That's what it appears to be, yes.</p> <p>10 Q. And in your experience with Rob</p> <p>11 Montefiore, was he capable in his job?</p> <p>12 A. He was. He is, yes.</p> <p>13 Q. Okay. Is he still at Credit Suisse?</p> <p>14 A. He is.</p> <p>15 Q. Okay.</p> <p>16 Why would this kind of analysis be put</p> <p>17 together?</p> <p>18 A. Again, I think general thinking about the</p> <p>19 business, analyzing the profitability and the risks</p> <p>20 within different business lines, and I think here,</p> <p>21 it looks like we were having a deeper dive into what</p> <p>22 the actual P&L and risks associated were with the</p> <p>23 lending business.</p> <p>24 Q. And who would you circulate this kind of</p> <p>25 analysis to?</p>

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2 A. I imagine I would have, again, circulated

3 it to the trading sales partners and probably kept

4 the -- kept my managers also in the loop, although I

5 don't recall specifically if we did for this email

6 or not.

7 Q. In general, that's something you do,

8 though?

9 A. Yes.

10 Q. Okay. Actually, we can turn now to a

11 document that maybe will shed some light on that

12 question.

13 MR. SCHNEIDERMAN: Can we pull up Tab BI,

14 B as in boy and I as in Idaho.

15 And this will be marked as Exhibit 159.

16 (10/29/17 email chain between Leonardo

17 Mayer and Mike Ebert marked Exhibit 159 for

18 identification, as of this date.)

19 THE WITNESS: Exhibit 159, okay.

20 BY MR. SCHNEIDERMAN:

21 Q. Take a moment to look over it.

22 A. Yes.

23 Okay.

24 Q. Do you recognize this document?

25 A. The same thing as before. I don't recall

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2 motivation behind this particular email that I

3 forwarded to him, but just general understanding of

4 what's happening in the businesses.

5 Q. Okay. And then at the top of your second

6 email, about a third of the way down that second

7 page, you mention a discussion on VIX ETNs on Friday

8 evenings.

9 Do you see that?

10 A. On which paragraph, on Point 3?

11 Q. It's the very top of the next email.

12 A. Yes. "Hi Mike: Following up on our

13 discussion on Friday evening."

14 Okay, yes.

15 Q. Do you recall anything about that

16 discussion?

17 A. I don't. I don't remember that

18 discussion.

19 Q. Was it a pretty regular occurrence, that

20 the two of you would maybe discuss the state of VIX

21 ETNs?

22 A. We would discuss many things as an ongoing

23 dialogue around the businesses and risks. ETNs

24 would have been part of that.

25 Q. Okay. So in that Paragraph 1, just below

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2 this specific document or remember it, but it looks

3 like it's an email exchange between me and Mike

4 Ebert.

5 Q. From October 29th, 2017?

6 A. Correct.

7 Q. Okay. So to start, your first email at

8 the bottom of Page 2, you send -- you forward to

9 Mike Ebert the, quote, "Daily email that is sent out

10 with what we are lending in VIX ETNs."

11 Do you see that?

12 A. That's right.

13 Q. I think this is kind of what we were just

14 talking about. This is keeping Ebert in the loop

15 about the state of lending?

16 A. That's what it appears to, yes.

17 Q. Why is that information important for

18 Mr. Ebert to have?

19 MR. WASHER: Objection to the form;

20 foundation.

21 A. Why is it important for Michael Ebert to

22 have? I think it would have been no different than

23 any other kind of other supervisory duty that he

24 would have had. He needs to know what's going on in

25 the businesses, and I don't know the exact

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2 the part that we are talking about, you have a

3 question, I think it's just posing this as something

4 to think about, but you say, "Do the current

5 creation/redemption restrictions actually do

6 anything when, in theory, you could have infinite

7 AUM" -- I take that to mean assets under management

8 -- "from buying demand in open markets satisfied by

9 market makers that short."

10 Do you see that?

11 A. Yes.

12 Q. Can you explain to me what that means? I

13 don't have a background in finance, so that's a

14 confusing one for me.

15 A. Sure.

16 You know, it's been some years since this

17 email. Let me read the whole paragraph because I

18 need a little more context, as well, to that one

19 sentence.

20 Q. Sure.

21 A. Okay. Yeah, I think it's the same kind of

22 thinking along the lines of we are trying to

23 understand, really, the drivers and the color and

24 the flow that are happening in the ETN business. I

25 think this particular sentence is -- you know, is

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2 kind of thinking about, well, could one thing that

3 would be happening here is there's buyers of XIV in

4 the open market, there's market makers that are

5 selling that and hedging with VIX futures, and those

6 market makers that are shorting XIV are coming to CS

7 to borrow that restock and how is that mechanic

8 really working.

9 I don't know --

10 Q. So you mentioned --

11 A. I'm sure you're going to ask whether

12 that's an infinite AUM demand. I don't know exactly

13 why I phrased it like that. I think I was just kind

14 of thinking about one scenario where you could just

15 have a lot -- a lot of demand from end users, we

16 don't know who those are, in the open market buying

17 XIV, and market makers continuously shorting it, and

18 that ETN would have to be created through a lending

19 process.

20 But there's nothing to make me think that

21 there would be an infinite demand or anything like

22 that. This is just kind of general thinking about

23 what potential -- potentially could happen or what

24 might be happening.

25 Q. You also reference in that sentence "the

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2 market buying and market makers having to short and

3 borrow that stock from the lending.

4 Q. "The current creation/redemption

5 restrictions," is that referring to the requirement

6 that the creation must be accompanied by a swap?

7 A. Yes, I think so.

8 Q. Okay. And then if we go up a bit further

9 in this document, if we can go towards the top of

10 the first page, you will see that Mike Ebert asks

11 "What's our next step in this analysis/thought

12 process?"

13 Do you see that?

14 A. Yes. Okay, yes. On November 2nd.

15 Q. Okay. The reason I point that out is we

16 are going to look at another document now where that

17 conversation picks up.

18 MR. SCHNEIDERMAN: So can we pull up

19 Tab I, as in Idaho. And this is Exhibit 87.

20 THE WITNESS: Okay.

21 BY MR. SCHNEIDERMAN:

22 Q. Take a moment to look this over.

23 A. It's a little bit difficult to read this

24 one.

25 Q. You should be able to zoom in and out. I

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2 current creation/redemption restriction"?

3 A. Yes.

4 Q. I am trying to understand what that

5 piece -- you know, the role that that piece plays in

6 the question.

7 A. Right.

8 Q. Is this about -- is this about channeling

9 demand towards creations via swap versus borrowing

10 XIV?

11 MR. WASHER: Objection to the form.

12 A. I think it's the same kind of thinking,

13 which is, you know, we have -- at the time, as we

14 just mentioned, we have the creation process that

15 comes in -- that accounts could come in to create,

16 but they have to do it via swap, which was a way to

17 limit the AUM of the product.

18 But then you also have the mechanics of,

19 again, participants in the open market buying the

20 ETN and market markers having to short it and create

21 it, and, really, at the end of the day, what were

22 the drivers -- what were the drivers causing the AUM

23 to go up or down, you know, was it the actual

24 creation/redemption process, or was it really coming

25 from market -- again, from participants in the

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2 am not sure if that will make it easier.

3 A. Okay, yes. Yes, that does help. Thank

4 you.

5 Q. Okay. Let me know -- with all of these,

6 if you have any issues seeing anything, just let us

7 know.

8 A. Okay.

9 Okay.

10 Q. Okay. Do you recognize this email?

11 A. I do not.

12 Q. Do you have any reason to doubt it's an

13 email dated November 3rd, 2017, between you, Robert

14 Sowler, and Mel Oechslein?

15 A. I don't see that.

16 Oh, okay, I wasn't seeing all of the

17 sheets before. Okay, there are three sheets here.

18 Got it.

19 That is correct, that's an email from me

20 to Rob and Mel, yes.

21 Q. If you want to take a minute to look over

22 the other two pages, that's fine.

23 A. Okay, sure. Just a moment for that.

24 Okay.

25 Q. Okay. So if you go to the very bottom,

<p style="text-align: right;">Page 66</p> <p>1 LEONARDO MAYER</p> <p>2 you will see the thread begins with the same</p> <p>3 question from Ebert, "What's our next step in this</p> <p>4 analysis/thought process?"</p> <p>5 Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. Okay. And then in response, you lay out</p> <p>8 what you call "Four states of</p> <p>9 business/profitability."</p> <p>10 That's at the top of Page 1, if you are</p> <p>11 looking for it.</p> <p>12 A. Right, okay.</p> <p>13 "Four states of business/profitability,"</p> <p>14 okay.</p> <p>15 Q. And so if we have a look at -- you can</p> <p>16 kind of quickly look over the first three, but I am</p> <p>17 focused on the fourth one.</p> <p>18 So, let me know when you have had a chance</p> <p>19 to glance over it.</p> <p>20 A. Yes, just a second.</p> <p>21 So, current position --</p> <p>22 Okay. Which one are you focusing on,</p> <p>23 No. D?</p> <p>24 Q. Yes.</p> <p>25 So Scenario D says, "Buy back all risk</p>	<p style="text-align: right;">Page 67</p> <p>1 LEONARDO MAYER</p> <p>2 inventory and assume half shares we buy back comes</p> <p>3 back to us in increased lending."</p> <p>4 A. Okay.</p> <p>5 Q. Is that right?</p> <p>6 A. That's what it reads, yes.</p> <p>7 Q. So it's the same buy back XIV notes and</p> <p>8 assume we are able to lend half of them?</p> <p>9 A. That's what it looks like, yes.</p> <p>10 Q. Okay. And then if we scroll down a bit</p> <p>11 more, you kind of start a new header, which is,</p> <p>12 "Buying back XIV"?</p> <p>13 A. Yes.</p> <p>14 Q. And then if we scroll down a bit more to</p> <p>15 Page 3, under that topic, you say, "Risk of shares</p> <p>16 coming back in the form of new creations is less</p> <p>17 than what we may have originally considered"?</p> <p>18 A. I see that, yes, Point D.</p> <p>19 Q. Can you explain to me what that means?</p> <p>20 A. "Risk of shares coming back in the form of</p> <p>21 new creations is less than what we may have</p> <p>22 originally considered."</p> <p>23 Q. And just to remind you, for the context</p> <p>24 here, this is in the context of buying back XIV.</p> <p>25 A. Well, I think the broader picture here is</p>
<p style="text-align: right;">Page 68</p> <p>1 LEONARDO MAYER</p> <p>2 that we were evaluating different -- different ways</p> <p>3 to risk manage the ETN portfolio, one of which was</p> <p>4 to buy back, essentially, the shares that we created</p> <p>5 and we were short in having to hedge and rebound,</p> <p>6 and I think what we were trying to think about here</p> <p>7 was that if we actually went out and bought those</p> <p>8 shares from the market, market makers that</p> <p>9 presumably would be short would have to create those</p> <p>10 shares, right, and so they would either come back to</p> <p>11 borrow shares or they would create them via the</p> <p>12 creation process that we just discussed, which was</p> <p>13 creating and having the swap with it.</p> <p>14 Q. Why would it be a problem if that's</p> <p>15 happening?</p> <p>16 A. I don't know if it would have necessarily</p> <p>17 been a problem, but our -- I think our -- our aim of</p> <p>18 the risk management was to try to have a position</p> <p>19 that carried -- you know, that didn't carry -- where</p> <p>20 we were controlling the risk, that we didn't want to</p> <p>21 be short too many XIV shares, and we were just being</p> <p>22 efficient and clinical in the way we were</p> <p>23 approaching that.</p> <p>24 The more specific to your question, if we</p> <p>25 were just buying back the shares, and then someone</p>	<p style="text-align: right;">Page 69</p> <p>1 LEONARDO MAYER</p> <p>2 was coming in to create them again, it was maybe not</p> <p>3 an effective risk management tool.</p> <p>4 Q. As opposed to if they are borrowing them,</p> <p>5 that's not -- that doesn't run into the same kind of</p> <p>6 inefficiency problem?</p> <p>7 A. Well, they could come back and borrow</p> <p>8 them, but, you know, for our purposes, we were just</p> <p>9 trying to have sort of a balanced book in terms of</p> <p>10 the total number of notes that we were short and</p> <p>11 having to hedge.</p> <p>12 Q. I will just point out the last sentence in</p> <p>13 this same bullet point, you say, "The short sellers</p> <p>14 are likely to be market makers who do not have ISDAs</p> <p>15 and are unable to create in a traditional manner</p> <p>16 (with offsetting swap) and instead would likely just</p> <p>17 borrow/lead to increase in lending."</p> <p>18 Do you see that?</p> <p>19 A. Right. Yes, I do, yes.</p> <p>20 Q. So --</p> <p>21 A. So --</p> <p>22 Q. Go ahead.</p> <p>23 MR. WASHER: Sorry. There's no question</p> <p>24 pending. You want to wait for a question.</p> <p>25 Q. I was just going to ask -- I mean, my</p>

<p style="text-align: right;">Page 70</p> <p>1 LEONARDO MAYER</p> <p>2 interpretation of this is the concern that you just</p> <p>3 laid out was not actually happening because of the</p> <p>4 behavior you described here to the extent the market</p> <p>5 makers need more notes, they are coming back to</p> <p>6 borrow them.</p> <p>7 MR. WASHER: Objection to the form.</p> <p>8 A. That's what it sounds like.</p> <p>9 MR. WASHER: Objection to the form. It's</p> <p>10 still not a question.</p> <p>11 Q. Is that correct? Is that your</p> <p>12 understanding?</p> <p>13 A. Sorry, what is the specific question?</p> <p>14 Q. Okay. So the first sentence lays out</p> <p>15 "risk of shares coming back in the form of new</p> <p>16 creations is less than what we may have originally</p> <p>17 considered."</p> <p>18 A. Right.</p> <p>19 Q. I am asking if the reason the risk of</p> <p>20 shares coming back in the form of new creations is</p> <p>21 less than what you may have originally considered is</p> <p>22 because of your explanation in that last sentence,</p> <p>23 that to the extent market makers are coming back for</p> <p>24 more XIV notes, they are coming back in the form of</p> <p>25 lending?</p>	<p style="text-align: right;">Page 71</p> <p>1 LEONARDO MAYER</p> <p>2 MR. WASHER: Objection.</p> <p>3 A. Yes, I think that's what we were thinking</p> <p>4 was potentially happening, that's right.</p> <p>5 Q. Okay.</p> <p>6 Okay. So if we go, then, to the top of</p> <p>7 this document -- I know there's a lot of scrolling</p> <p>8 around here.</p> <p>9 A. Okay. We are back to Page 1, right?</p> <p>10 Q. Yes, the top of Page 1.</p> <p>11 A. Okay.</p> <p>12 Q. So you follow-up with a note to Mr. Sowler</p> <p>13 and Mr. Oechslein saying, "As I was walking in, Mike</p> <p>14 pulled me into his office, so let's do this is at a</p> <p>15 high level."</p> <p>16 I am assuming that's Mike Ebert, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And you say, "Bottom line, wants to get</p> <p>19 the vega risk we manage to around 20 million and</p> <p>20 assets to bring them in if we need help getting the</p> <p>21 green light from legal/compliance to go ahead and</p> <p>22 start purchasing shares."</p> <p>23 Do you see that?</p> <p>24 A. I do, yes.</p> <p>25 Q. So does this mean that the team ultimately</p>
<p style="text-align: right;">Page 72</p> <p>1 LEONARDO MAYER</p> <p>2 elected to go with Scenario D of these four states</p> <p>3 of business/profitability?</p> <p>4 A. I don't remember exactly what came out of</p> <p>5 this conclusion, but it sounds like -- it sounds</p> <p>6 like we ended up trying to buy back shares. I think</p> <p>7 the primary motivation behind that was that we</p> <p>8 were -- like any market making business, we were</p> <p>9 trying to risk manage our position, and from here,</p> <p>10 it looks like Mike was most comfortable with us</p> <p>11 being in a position to risk manage \$20 million of</p> <p>12 vega, and that's what we -- it sounds like we</p> <p>13 ultimately did, right, by buying potentially some</p> <p>14 shares back in the market, and I don't know if we</p> <p>15 did anything else.</p> <p>16 Q. None of these other scenarios or states of</p> <p>17 business that you laid out involved buying back</p> <p>18 shares, right?</p> <p>19 A. Do any of the other scenarios -- I'd have</p> <p>20 to go back and review them here, but it looks like D</p> <p>21 option was to buy back shares, yes.</p> <p>22 Q. Okay. Do you recall anything else about</p> <p>23 this conversation with Mike Ebert when he pulled you</p> <p>24 into his office?</p> <p>25 A. I do not.</p>	<p style="text-align: right;">Page 73</p> <p>1 LEONARDO MAYER</p> <p>2 Q. How would he have arrived at the decision</p> <p>3 to pursue this strategy?</p> <p>4 MR. WASHER: Objection to the form;</p> <p>5 foundation.</p> <p>6 A. How would he have arrived at this</p> <p>7 strategy? I don't know exactly how, but I would</p> <p>8 guess he took into consideration some of the input</p> <p>9 from the trading desk and maybe his general thinking</p> <p>10 about the risk that the business should run.</p> <p>11 Q. Who would he have consulted in making the</p> <p>12 decision?</p> <p>13 MR. WASHER: Objection to the form;</p> <p>14 foundation.</p> <p>15 A. In making that decision, I am not sure.</p> <p>16 Q. Can you say generally how he would have</p> <p>17 made this kind of decision?</p> <p>18 MR. WASHER: Same objection.</p> <p>19 A. How would he -- generally how he would</p> <p>20 approach decision making? I think he would have</p> <p>21 taken input, again, from the trading desk, and from</p> <p>22 the risk team, and from other partners across the</p> <p>23 businesses, but I can't tell you specifically how he</p> <p>24 came up with the \$20 million of vega.</p> <p>25 Q. Who would he have informed about the</p>

<p style="text-align: right;">Page 74</p> <p>1 LEONARDO MAYER</p> <p>2 decision to pursue this strategy?</p> <p>3 MR. WASHER: Objection to the form.</p> <p>4 A. He would have told me and probably Rob and</p> <p>5 Mel.</p> <p>6 Q. Would he tell his supervisors?</p> <p>7 MR. WASHER: Objection to the form;</p> <p>8 foundation.</p> <p>9 A. Oh, you mean if he would have informed</p> <p>10 above him, you are saying?</p> <p>11 Q. Yes.</p> <p>12 A. I don't know. I don't know how -- I don't</p> <p>13 know how Mike managed that part of the conversation.</p> <p>14 Q. Okay.</p> <p>15 MR. SCHNEIDERMAN: Let's go to Tab J, as</p> <p>16 in January. This was previously marked as</p> <p>17 Exhibit 88.</p> <p>18 THE WITNESS: Okay, Exhibit 88.</p> <p>19 BY MR. SCHNEIDERMAN:</p> <p>20 Q. Take a minute to look over this.</p> <p>21 A. Okay.</p> <p>22 Q. Do you recognize this?</p> <p>23 A. Sorry, I missed a page. Just a moment.</p> <p>24 Q. Yes, it's three pages.</p> <p>25 A. Okay. Yes, I don't recall this exact</p>	<p style="text-align: right;">Page 75</p> <p>1 LEONARDO MAYER</p> <p>2 document or remember it, but I can see that there's</p> <p>3 an exchange between Mike Ebert and me and Rob Sowler</p> <p>4 and Mel from November of 2017.</p> <p>5 Q. Okay. So at the bottom of Page 2, you</p> <p>6 note --</p> <p>7 A. Okay.</p> <p>8 Q. -- you note that you are going to forward</p> <p>9 Mike Ebert some analysis on breakevens on borrowing</p> <p>10 versus creating from an external counterparty</p> <p>11 perspective.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. So this is essentially comparing how</p> <p>15 attractive borrowing versus creating with swaps is</p> <p>16 from the external counterparty perspective?</p> <p>17 A. I think so, yes.</p> <p>18 Q. Okay. And you provide some initial</p> <p>19 thoughts. If we scroll up, you determine that it</p> <p>20 cost DB -- I take that to mean Deutsche Bank?</p> <p>21 A. Yes, I think so.</p> <p>22 Q. It costs Deutsche Bank 2.4 percent to</p> <p>23 create XIV with a swap?</p> <p>24 A. 2.14.</p> <p>25 Q. Sorry, 2.14.</p>
<p style="text-align: right;">Page 76</p> <p>1 LEONARDO MAYER</p> <p>2 And then it costs them 2.85 percent to</p> <p>3 borrow from Credit Suisse?</p> <p>4 A. Okay, yes. That's what it seems like it</p> <p>5 says here.</p> <p>6 Q. Okay. And you say it's FF plus 1.67</p> <p>7 equals 2.85 percent.</p> <p>8 Is that FF finder's fee, or what is that?</p> <p>9 A. Fed fund rate.</p> <p>10 Q. Fed fund, okay.</p> <p>11 And then in the next sentence, you say,</p> <p>12 "One way to incentivize borrower versus creation</p> <p>13 would be to lower the lending right to</p> <p>14 counterparties that can create to below that</p> <p>15 2.14 percent," correct?</p> <p>16 A. Okay, yes.</p> <p>17 Q. How are you able to put together this kind</p> <p>18 of analysis for Deutsche Bank's perspective?</p> <p>19 MR. WASHER: Objection to the form.</p> <p>20 A. I think we were -- how did we come up with</p> <p>21 this? I think we had some assumptions that what if</p> <p>22 we were in the position of Deutsche Bank, what type</p> <p>23 of costs we would have in engaging either one of</p> <p>24 these activities, whether it was borrowing or</p> <p>25 creating with swap, and you know, some of the things</p>	<p style="text-align: right;">Page 77</p> <p>1 LEONARDO MAYER</p> <p>2 are public.</p> <p>3 You know, the management fee, you can</p> <p>4 assume some funding rate, we can assume some cost of</p> <p>5 rehedge, and the rest.</p> <p>6 But this is -- this is a model. We don't</p> <p>7 know for certain.</p> <p>8 Q. Why didn't you use Deutsche Bank as the</p> <p>9 example?</p> <p>10 A. Why did we?</p> <p>11 Q. Yes.</p> <p>12 A. I don't know. I'm not sure why we used</p> <p>13 them. I would imagine that we had them -- they had</p> <p>14 created on swap, and so they could have been one</p> <p>15 counterparty that we had, but I don't recall the</p> <p>16 specifics of why we looked at them.</p> <p>17 Q. Okay. So you are sending this analysis to</p> <p>18 Mike Ebert and Rob Sowler?</p> <p>19 A. Yes.</p> <p>20 Q. And I think we may have talked about this</p> <p>21 before, but can you remind me what your relationship</p> <p>22 is to Rob Sowler at this time?</p> <p>23 A. Rob was -- Rob was one of my managers. I</p> <p>24 can't remember at what point my direct manager was</p> <p>25 Rob Sowler and at one point it was Philippe Carrier.</p>

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2 I guess at this point, maybe Rob was my manager, I

3 can't remember exactly, but he was one of the senior

4 managers.

5 Q. And you said Mike Ebert would have been

6 his boss?

7 A. Correct.

8 Q. Okay. Why are you forwarding this kind of

9 analysis to them?

10 A. Just general business -- business

11 practice. You know, Mel was part of the team,

12 obviously doing the VIX, and then Rob was my senior

13 manager, so we were just having a discussion of how

14 we should manage the business.

15 Q. Okay. We talked about this a little bit

16 before, but was there any way for you to track who

17 loans were going out to?

18 A. Who the loans were going out to?

19 Q. Yes.

20 A. You mean the borrow?

21 Q. The borrow --

22 A. Who was borrowing the shares?

23 Q. Yes.

24 A. No, we were not privileged to that

25 information. That was part of the prime brokerage

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2 less risky activity. It did not -- you know, the --

3 creating and then having -- the creation was with

4 the swap, as I had mentioned, was risk neutral for

5 CS, but as soon as the swaps rolled off, then we had

6 to start -- we were at risk on being short those

7 notes.

8 And so -- and so that was a riskier

9 activity, and that's what we were trying to limit.

10 Q. And then because you don't have to hedge

11 the risk with the lending, that's also more

12 profitable?

13 A. Is it more profitable? As we did the

14 analysis here, yes, that's what the analysis is

15 showing.

16 Q. Okay. And then Mike Ebert responds and

17 says, "Yes. Talk tomorrow."

18 Do you recall anything from that

19 conversation?

20 A. I do not.

21 Q. Having looked over these documents, do you

22 recall anything more about the decision to shift

23 from creation to lending?

24 A. Not specifically, no.

25 Q. Okay.

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2 business, which is separate from ours.

3 Q. What kind of information were you able to

4 review regarding who the loan counterparties were?

5 MR. WASHER: Objection to form.

6 A. We did not -- we did not know who the --

7 we did not know who the loan counterparties were, we

8 just knew how much the prime brokerage was requiring

9 us to facilitate in the lending.

10 Q. Did you know how many lending parties

11 there were?

12 A. No. We knew the number of shares, as we

13 saw before, there were emails tracking that, but I

14 didn't know the number of counterparties borrowing

15 that I can recall, no.

16 Q. Did you know the size of the loans?

17 A. On an individual basis, no. On an

18 aggregate sum basis, yes.

19 Q. Okay. So why -- on the next email up from

20 you, you mention four different alternatives to

21 incentivize more lending, less creation.

22 Why does Credit Suisse want to increase

23 lending and reduce creation?

24 A. We wanted to increase lending versus

25 creation because it was -- it was less -- there was

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2 MR. SCHNEIDERMAN: Let's go to tab BV, B

3 as in boy, V as in violin.

4 MR. WASHER: Brendan, we have been going a

5 little more than an hour. Is now a good time

6 to take a break, you think?

7 MR. SCHNEIDERMAN: Do you want to do ten

8 minutes, five minutes?

9 MR. WASHER: Ten is fine.

10 MR. SCHNEIDERMAN: Okay. We will be back

11 in ten minutes.

12 THE VIDEOGRAPHER: The time is 12:45. We

13 are going off the record.

14 (Recess taken)

15 THE VIDEOGRAPHER: The time is 12:59. We

16 are going back on the record.

17 BY MR. SCHNEIDERMAN:

18 Q. So before we turn to the next document,

19 just following up on our conversation about Mike

20 Ebert, did he ever tell you that he was not passing

21 information along that you gave him?

22 MR. WASHER: Objection to the form.

23 A. Can you say that one more time, please?

24 Q. Did he ever tell you he was not going to

25 tell his superiors about any analysis you provided

<p style="text-align: right;">Page 82</p> <p>1 LEONARDO MAYER</p> <p>2 him?</p> <p>3 MR. WASHER: Objection to the form.</p> <p>4 Q. Did he ever tell you that any of the</p> <p>5 analysis you were doing for him was a secret?</p> <p>6 A. No.</p> <p>7 MR. WASHER: Objection to the form.</p> <p>8 Q. In your experience with Mike Ebert, was he</p> <p>9 competent in his job?</p> <p>10 A. Yes.</p> <p>11 Q. Was he communicative with his supervisors?</p> <p>12 MR. WASHER: Objection to the form;</p> <p>13 foundation.</p> <p>14 A. I don't know that.</p> <p>15 Q. In your experience with him, would he hide</p> <p>16 material information?</p> <p>17 MR. WASHER: Objection to the form.</p> <p>18 A. No.</p> <p>19 Q. Okay.</p> <p>20 MR. SCHNEIDERMAN: All right. Let's go to</p> <p>21 document -- or Tab BV, B as in boy, V as in</p> <p>22 violin.</p> <p>23 MR. DUMAS: Exhibit 160?</p> <p>24 MR. SCHNEIDERMAN: This will be marked as</p> <p>25 Exhibit 160.</p>	<p style="text-align: right;">Page 83</p> <p>1 LEONARDO MAYER</p> <p>2 (11/2017 email chain between Leonardo</p> <p>3 Mayer, Paul Somma, Mel Oechslin, and Mike Ebert</p> <p>4 marked Exhibit 160 for identification, as of</p> <p>5 this date.)</p> <p>6 BY MR. SCHNEIDERMAN:</p> <p>7 Q. Take a minute to look it over.</p> <p>8 A. Okay.</p> <p>9 Q. Do you recognize this document?</p> <p>10 A. Again, I don't remember this document, but</p> <p>11 it does appear to be an exchange between me, Paul</p> <p>12 Somma, Mel, and Mike Ebert around November of 2017.</p> <p>13 Q. Okay. And the initial email that you</p> <p>14 send, you ask about the obligations regarding</p> <p>15 creation?</p> <p>16 A. Yes.</p> <p>17 Q. You asked, "If someone came in to create a</p> <p>18 very large XIV quantity, would we be obliged to do</p> <p>19 it?"</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And, also, it says, "Yes, unless we are</p> <p>23 informed the exchange and issue a press release</p> <p>24 ahead of time."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">Page 84</p> <p>1 LEONARDO MAYER</p> <p>2 A. I do.</p> <p>3 Q. Is that under the Exchange's rules, or is</p> <p>4 that an internal policy of Credit Suisse's?</p> <p>5 A. I am not 100 percent sure. What it reads</p> <p>6 to me is that it was an Exchange rule. I am not</p> <p>7 100 percent sure.</p> <p>8 Q. Okay. And you forward this to Mike Ebert,</p> <p>9 if you scroll up to the middle of the first page --</p> <p>10 A. Yes.</p> <p>11 Q. -- and then he says, "Let's discuss."</p> <p>12 Do you see that?</p> <p>13 A. Where he says "Let's discuss" --</p> <p>14 Q. "I have a hard time believing that" --</p> <p>15 A. Yes, yes, that's right.</p> <p>16 Q. Do you recall anything about that</p> <p>17 discussion?</p> <p>18 A. I do not.</p> <p>19 Q. Do you remember what the ultimate answer</p> <p>20 was to that question?</p> <p>21 A. It sounds like the -- I don't remember the</p> <p>22 specific result of this, but it sounds like there</p> <p>23 was no limit of what someone could come in to</p> <p>24 create.</p> <p>25 Q. Based on the other documents we've been</p>	<p style="text-align: right;">Page 85</p> <p>1 LEONARDO MAYER</p> <p>2 reviewing, what's your impression of why you're</p> <p>3 asking that question?</p> <p>4 A. I think it's the same idea, we are trying</p> <p>5 to make sure we are appropriately risk managing this</p> <p>6 produce and that the AUM doesn't get too large where</p> <p>7 it's difficult to risk manage.</p> <p>8 Q. And as you said before, the creation</p> <p>9 restrictions were a way of limiting the AUM?</p> <p>10 A. That's correct.</p> <p>11 Q. So it seems like this is just asking for</p> <p>12 confirmation whether the creation restrictions are</p> <p>13 operative in the way that you understand them to be?</p> <p>14 A. Yes. Well, yes, we are asking -- I guess</p> <p>15 I am asking if there's any -- like it says, any</p> <p>16 limit to the amount that could be created on one</p> <p>17 day.</p> <p>18 Q. Okay.</p> <p>19 MR. SCHNEIDERMAN: Let's go to Tab K.</p> <p>20 This was previously introduced as Exhibit 89.</p> <p>21 THE WITNESS: Okay. I am going to read</p> <p>22 from the bottom.</p> <p>23 BY MR. SCHNEIDERMAN:</p> <p>24 Q. Okay?</p> <p>25 A. Okay.</p>

<p style="text-align: right;">Page 86</p> <p>1 LEONARDO MAYER</p> <p>2 Q. Do you recognize this document?</p> <p>3 A. Again, I don't remember this one, but it</p> <p>4 looks like it's an exchange between me and Mel and</p> <p>5 Rob Sowler, Mike Ebert in December of '17.</p> <p>6 Q. Okay. And so Mel Oechslein starts this</p> <p>7 thread by circulating details on the buyback of XIV</p> <p>8 notes; is that right?</p> <p>9 A. Yes, that's correct.</p> <p>10 Q. And he notes how many shares the desk</p> <p>11 could buy back and at what premium to NAV; is that</p> <p>12 right?</p> <p>13 A. That's right.</p> <p>14 Q. He also notes the amount of vega needed to</p> <p>15 be purchased in the event of an XIV knockout?</p> <p>16 A. Yes.</p> <p>17 Q. Why is he circulating this update to this</p> <p>18 group?</p> <p>19 A. I don't know the specific reason.</p> <p>20 Q. Generally, why would this group receive an</p> <p>21 update like this?</p> <p>22 MR. WASHER: Objection to the form.</p> <p>23 A. Because it looks like we likely took on --</p> <p>24 we were buying back shares, and he wanted to give an</p> <p>25 update to the business.</p>	<p style="text-align: right;">Page 87</p> <p>1 LEONARDO MAYER</p> <p>2 Q. And so Mike Ebert's response is, "What are</p> <p>3 we doing to encourage lending"?</p> <p>4 A. Yes.</p> <p>5 Q. Why is he so eager to encourage lending?</p> <p>6 MR. WASHER: Objection to the form;</p> <p>7 foundation.</p> <p>8 A. I don't know exactly why Mike was saying</p> <p>9 that.</p> <p>10 Q. What are some possible reasons?</p> <p>11 MR. WASHER: Objection to the form;</p> <p>12 foundation. Wild speculation.</p> <p>13 A. Again, I am not sure what -- I am not sure</p> <p>14 why he was specifically saying that.</p> <p>15 Q. So you are discussing -- the update from</p> <p>16 Mel is about the buyback and risk management?</p> <p>17 A. Yes.</p> <p>18 Q. Again, we talked about this a little bit</p> <p>19 before, but what does lending have to do with those</p> <p>20 topics?</p> <p>21 A. Would lending -- well, lending is one of</p> <p>22 the parts of the ETN business that we ran, so it</p> <p>23 would be part of the conversation, which it is, and</p> <p>24 it looks like what this is -- this is detailing out,</p> <p>25 right?</p>
<p style="text-align: right;">Page 88</p> <p>1 LEONARDO MAYER</p> <p>2 MR. SCHNEIDERMAN: Let's go to Tab BF, B</p> <p>3 as in boy, F as in Friday.</p> <p>4 THE WITNESS: Okay. I will read through</p> <p>5 this.</p> <p>6 BY MR. SCHNEIDERMAN:</p> <p>7 Q. Okay.</p> <p>8 A. Okay.</p> <p>9 Q. So you will see this is a later email from</p> <p>10 that same chain we just looked at?</p> <p>11 A. Agreed.</p> <p>12 Q. So in response to Mike Ebert's question,</p> <p>13 "Are we approved to buy more, what do we do to</p> <p>14 encourage lending," you come back and answer,</p> <p>15 "Request has been raised to buy more. Approval</p> <p>16 pending completion/review of first stage, which, as</p> <p>17 Mel details, concludes this week. Increasing</p> <p>18 lending also in motion with compliance on request to</p> <p>19 lower lending rate to specific customers like DB/SG</p> <p>20 that come in for creations."</p> <p>21 "DB/SG," that's Deutsche Bank and Societe</p> <p>22 Generale?</p> <p>23 A. Yes, that's correct.</p> <p>24 Q. So the plan here is to encourage specific</p> <p>25 customers like Deutsche Bank and Soc Gen to change</p>	<p style="text-align: right;">Page 89</p> <p>1 LEONARDO MAYER</p> <p>2 their purchasing behavior from creations with swaps</p> <p>3 to borrowing notes?</p> <p>4 A. That's right.</p> <p>5 Q. Philippe Carrier is looped into this</p> <p>6 email; is that right?</p> <p>7 A. Yes, there's a forward to him.</p> <p>8 Q. And he says, "Thanks for the update"?</p> <p>9 A. Right.</p> <p>10 MR. SCHNEIDERMAN: Let's go to Tab N, as</p> <p>11 in Nicole. This was previously marked as</p> <p>12 Exhibit 92.</p> <p>13 Q. This is just one page, but take a moment</p> <p>14 to review it.</p> <p>15 A. Right, Exhibit 92. I am opening that up.</p> <p>16 Okay.</p> <p>17 Q. Do you recognize this document?</p> <p>18 A. Similar to before, I don't remember it,</p> <p>19 but I see that it's a document between Mel and me in</p> <p>20 August of '17.</p> <p>21 Q. And in it Mel is discussing, among other</p> <p>22 things, the negative convexity inherent in inverse</p> <p>23 and levered VIX ETN and ETF products?</p> <p>24 A. Yes.</p> <p>25 Q. He's also discussing the volume of VIX</p>

<p style="text-align: right;">Page 90</p> <p>1 LEONARDO MAYER</p> <p>2 futures contracts exchanging hands?</p> <p>3 A. Yes.</p> <p>4 Q. The subject line of this email is "Draft</p> <p>5 for Tomorrow."</p> <p>6 A. Okay.</p> <p>7 Q. Do you know what that refers to?</p> <p>8 A. I do not.</p> <p>9 Q. Would that be for a presentation?</p> <p>10 A. I just don't recall this specific email</p> <p>11 enough to know what it was for.</p> <p>12 Q. In general, was there a practice of having</p> <p>13 the team meet regularly to discuss, you know, market</p> <p>14 events like this?</p> <p>15 A. We met regularly to discuss the market and</p> <p>16 positions and general business, but not specifically</p> <p>17 to discuss, you know, one particular trading day or</p> <p>18 something like this in this email that I can recall.</p> <p>19 Q. Okay. When you say you would regularly</p> <p>20 discuss these things, who all would be part of those</p> <p>21 meetings?</p> <p>22 A. Well, we would have the trading team meet.</p> <p>23 What I mean by meeting is formal and informal</p> <p>24 meetings. You know, we sit right next to each</p> <p>25 other, so we often just talk on the desk or</p>	<p style="text-align: right;">Page 91</p> <p>1 LEONARDO MAYER</p> <p>2 sometimes we go off the desk and discuss things, but</p> <p>3 it would be the trading team, yes.</p> <p>4 Q. Would that not include Mike Ebert and</p> <p>5 Philippe Carrier?</p> <p>6 A. It might, but not always.</p> <p>7 Q. Mel passes this information along to</p> <p>8 Marcus Payne.</p> <p>9 Do you know who that is?</p> <p>10 A. Marcus Payne was a salesperson on the</p> <p>11 desk.</p> <p>12 Q. Okay.</p> <p>13 MR. SCHNEIDERMAN: Okay. Let's go to</p> <p>14 Tab O, which was previously marked as</p> <p>15 Exhibit 93.</p> <p>16 Q. I am going to ask you about this first</p> <p>17 page, but feel free to look through the other pages</p> <p>18 if you would like.</p> <p>19 A. Yes.</p> <p>20 Okay, I'm with you.</p> <p>21 Q. Okay. Do you recognize this document?</p> <p>22 A. Similar to before, I don't recall this</p> <p>23 specific document, but I can see that it's an</p> <p>24 exchange between Mel, James Cheesbrough, and John</p> <p>25 Colello is copied here as well, from August of '17.</p>
<p style="text-align: right;">Page 92</p> <p>1 LEONARDO MAYER</p> <p>2 Q. Okay. If you look towards the bottom of</p> <p>3 Page 1, you asked Mel for a detailed strategy on ETN</p> <p>4 business opportunities challenges where you want to</p> <p>5 take it?</p> <p>6 A. Yes.</p> <p>7 Q. What is the purpose of putting something</p> <p>8 like that together?</p> <p>9 MR. WASHER: Objection to the form.</p> <p>10 A. It sounds like we were putting together</p> <p>11 some index flow presentation, just reading from the</p> <p>12 title, which is something that we would do</p> <p>13 periodically in the business just to review the</p> <p>14 business.</p> <p>15 Q. Who would see that presentation?</p> <p>16 A. Who would typically see that presentation</p> <p>17 would be my senior managers, like probably Philippe</p> <p>18 or Rob Sowler and Mike Ebert.</p> <p>19 Q. And what would they do with it?</p> <p>20 MR. WASHER: Objection to the form.</p> <p>21 A. You know, they would -- they would, you</p> <p>22 know, take in the information. What would they do</p> <p>23 specifically with it, I don't know.</p> <p>24 Q. Okay.</p> <p>25 MR. SCHNEIDERMAN: Let's go to Tab BR, B</p>	<p style="text-align: right;">Page 93</p> <p>1 LEONARDO MAYER</p> <p>2 as in burr, R as in Rebecca.</p> <p>3 This is an alphabet exercise for me today.</p> <p>4 This will be Exhibit 162.</p> <p>5 (9/2017 email chain between Leonardo</p> <p>6 Mayer, Michael Ebert, Robert Sowler, and Mandy</p> <p>7 Xu marked Exhibit 162 for identification, as of</p> <p>8 this date.)</p> <p>9 THE WITNESS: I don't think it has come up</p> <p>10 yet.</p> <p>11 BY MR. SCHNEIDERMAN:</p> <p>12 Q. Okay. You could try refreshing the</p> <p>13 browser.</p> <p>14 A. It's Exhibit 93?</p> <p>15 Q. Exhibit 162.</p> <p>16 A. I am with you. Pardon me.</p> <p>17 Q. No problem.</p> <p>18 A. Okay.</p> <p>19 Q. Do you recognize this document?</p> <p>20 A. As I said before, I don't remember this</p> <p>21 specific document, but it looks like it's an</p> <p>22 exchange between me, Ebert, Sowler, and Mandy Xu,</p> <p>23 who is our strategist, and copied from September of</p> <p>24 '17.</p> <p>25 Q. If we look at the middle of the second</p>

<p style="text-align: right;">Page 94</p> <p>1 LEONARDO MAYER</p> <p>2 page, among other things, you provided an update on</p> <p>3 the ETN front?</p> <p>4 A. The middle of the second page.</p> <p>5 Q. It's right in the middle of that</p> <p>6 paragraph.</p> <p>7 A. Oh, the paragraph from the P&L and risk.</p> <p>8 Okay.</p> <p>9 Q. So you are doing an update here on the</p> <p>10 share buyback and the state of lending demands; is</p> <p>11 that right?</p> <p>12 A. Yes, that's what it appears to, that's</p> <p>13 right.</p> <p>14 Q. Is there a difference between redeeming</p> <p>15 shares of XIV inventory and tearing up shares?</p> <p>16 A. Redeeming shares from inventory and</p> <p>17 tearing up shares.</p> <p>18 I think they are the same thing, no?</p> <p>19 Q. That's my impression. I wanted to give</p> <p>20 you a chance to correct me if I am wrong about that.</p> <p>21 A. Yes.</p> <p>22 Q. Okay.</p> <p>23 A. If I understand it correctly, yes.</p> <p>24 Q. Okay. So this isn't actually buying back</p> <p>25 shares, this is tearing up shares?</p>	<p style="text-align: right;">Page 95</p> <p>1 LEONARDO MAYER</p> <p>2 A. The way this reads to me, and it does not</p> <p>3 allow an explanation to it, is that yes, we tore up</p> <p>4 one and a half million shares.</p> <p>5 Q. Because of a creation demand?</p> <p>6 A. That's what I wrote, yes.</p> <p>7 Q. Do you have a reason to doubt that that's</p> <p>8 not accurate?</p> <p>9 A. No, I don't.</p> <p>10 Q. Okay. If we go to Page 1, Mike Ebert</p> <p>11 replies asking for a daily mail with a summary of</p> <p>12 volatility levels; is that right?</p> <p>13 A. I see that, yes.</p> <p>14 Q. And you respond that you will add him to</p> <p>15 that daily mail?</p> <p>16 A. Right.</p> <p>17 Q. Okay.</p> <p>18 MR. SCHNEIDERMAN: Let's go to Tab B0, B</p> <p>19 as in boy, O as in Ohio.</p> <p>20 Q. And this is, again, just to lay the</p> <p>21 groundwork for an attachment that we are going to</p> <p>22 look at.</p> <p>23 A. Okay. One --</p> <p>24 MR. SCHNEIDERMAN: This is Exhibit 163.</p> <p>25 (10/2017 email chain between Mel Oechslein</p>
<p style="text-align: right;">Page 96</p> <p>1 LEONARDO MAYER</p> <p>2 and Philippe Carrier copying Leonardo Mayer</p> <p>3 marked Exhibit 163 for identification, as of</p> <p>4 this date.)</p> <p>5 THE WITNESS: Okay, I read it.</p> <p>6 BY MR. SCHNEIDERMAN:</p> <p>7 Q. Do you recognize this document?</p> <p>8 A. Similar as before, I don't remember it</p> <p>9 specifically, but I can see it's an exchange between</p> <p>10 me -- it's an email from Mel to Philippe, copying</p> <p>11 me, in October of '17.</p> <p>12 Q. And you see that there's an attachment?</p> <p>13 A. Yes.</p> <p>14 Q. It's the VIX ETN summary, September 2017?</p> <p>15 A. Yes.</p> <p>16 MR. SCHNEIDERMAN: So let's pull up that</p> <p>17 attachment. This is Tab BP, and this is going</p> <p>18 to being marked as Exhibit 164.</p> <p>19 (Presentation titled "VIX ETN Product</p> <p>20 Update" marked Exhibit 164 for identification,</p> <p>21 as of this date.)</p> <p>22 BY MR. SCHNEIDERMAN:</p> <p>23 Q. So you can have a look through this</p> <p>24 document. You don't need to process it in any great</p> <p>25 detail, but feel free to get familiar with it.</p>	<p style="text-align: right;">Page 97</p> <p>1 LEONARDO MAYER</p> <p>2 A. Okay. I think I am still waiting for it</p> <p>3 to pop up.</p> <p>4 Q. Okay.</p> <p>5 A. Okay.</p> <p>6 Okay.</p> <p>7 Q. Okay. So this presentation is titled,</p> <p>8 "VIX ETN Product Update"?</p> <p>9 A. Yes.</p> <p>10 Q. It is dated October 2017?</p> <p>11 A. Right.</p> <p>12 Q. Who would have put a DEC like this</p> <p>13 together?</p> <p>14 A. This would have been the input between the</p> <p>15 trading desk and, again, the COO team.</p> <p>16 Q. Would sales be involved?</p> <p>17 A. I am not sure. Probably not.</p> <p>18 Q. Why not?</p> <p>19 A. It's possible that Paul Somma was</p> <p>20 involved, but I just -- I don't recall a specific</p> <p>21 instance of him putting together a pitch book like</p> <p>22 this.</p> <p>23 Q. Okay. And who is the pitch book for?</p> <p>24 A. Again, I don't know specifically why we</p> <p>25 put this one together in October of '17, but it</p>

<p style="text-align: right;">Page 98</p> <p>1 LEONARDO MAYER</p> <p>2 would have likely have been for a discussion with</p> <p>3 other stakeholders in the business.</p> <p>4 Q. Is that other people on the flow desk or</p> <p>5 other parts of Global Markets? Who are you</p> <p>6 referring to?</p> <p>7 A. Yes, I would imagine it would have been --</p> <p>8 maybe it was for risk or maybe it was for the</p> <p>9 business heads. Again, it's a part of our regular</p> <p>10 review. As I mentioned before, we would do these</p> <p>11 types of presentations from time to time.</p> <p>12 Q. Okay. So if we take a look at Slide 7 --</p> <p>13 do you see Slide 7?</p> <p>14 A. Yes. Pardon, yes, I am with you, Slide 7.</p> <p>15 Q. It says, "Regarding XIV, with the current</p> <p>16 economics and restrictions, XIV levies should not be</p> <p>17 listed"?</p> <p>18 A. Right.</p> <p>19 Q. Those are the levies against creation?</p> <p>20 A. Yes, that's what I think it's referring</p> <p>21 to.</p> <p>22 Q. And we spoke before about economics kind</p> <p>23 of being interchangeable with profitability.</p> <p>24 Is that what this is saying, because of</p> <p>25 the profitability of XIV, the levy should not be</p>	<p style="text-align: right;">Page 99</p> <p>1 LEONARDO MAYER</p> <p>2 lifted?</p> <p>3 A. I don't know the -- I don't know the</p> <p>4 drivers behind this statement. Maybe there's a</p> <p>5 slide after it. My guess is that this is a</p> <p>6 statement referring -- taking into consideration the</p> <p>7 profitability, as you mentioned, Mr. Schneiderman,</p> <p>8 and as well as the risk in the product to Credit</p> <p>9 Suisse.</p> <p>10 Q. Okay.</p> <p>11 MR. SCHNEIDERMAN: Let's go to Tab 2.</p> <p>12 This was previously introduced as Exhibit 95.</p> <p>13 Q. Are you able to see it?</p> <p>14 A. No. I am still -- the last thing I can</p> <p>15 see -- oh, it just came up. It's a bit of a delay.</p> <p>16 Now I see it, Exhibit 95, okay.</p> <p>17 Q. Do you recognize this document?</p> <p>18 A. Same as before, I don't recall this</p> <p>19 specific document, but I can see it looks like</p> <p>20 it's -- it's a meeting email, a meeting invite, and</p> <p>21 it has got Mel, and I, and Yogi Logan, and Robert</p> <p>22 McDonald, and it's coming from Clement Florentin,</p> <p>23 who's in structure, and this was in October of '17.</p> <p>24 Q. I was going to ask you about who these</p> <p>25 other people are.</p>
<p style="text-align: right;">Page 100</p> <p>1 LEONARDO MAYER</p> <p>2 It sounds like you recognize the names?</p> <p>3 A. Yes. So Clement is a structure. I</p> <p>4 believe he was working -- I believe he was working</p> <p>5 in Asia or London, not here in New York.</p> <p>6 Logi runs the QIS business, Quantitative</p> <p>7 Investment Strategy business.</p> <p>8 And Robert McDonald, I can't remember that</p> <p>9 name that well now.</p> <p>10 Q. Are these people that you would meet with</p> <p>11 regularly?</p> <p>12 A. Not regularly, no.</p> <p>13 Q. So the subject here is "VIX Options</p> <p>14 Liquidity"?</p> <p>15 A. Yes.</p> <p>16 Q. Do you remember this meeting?</p> <p>17 A. I do not remember this meeting, no.</p> <p>18 Q. Given their respective roles, do you have</p> <p>19 a sense of what the meeting would be about?</p> <p>20 A. I don't recall the specific meeting.</p> <p>21 Again, my guess is that maybe it was something we</p> <p>22 were thinking about from the structuring side in</p> <p>23 terms of VIX, and we were analyzing perhaps options</p> <p>24 liquidity, but, again, I don't recall this meeting.</p> <p>25 Q. Can you tell me a little bit more about</p>	<p style="text-align: right;">Page 101</p> <p>1 LEONARDO MAYER</p> <p>2 what structure does?</p> <p>3 A. The structuring team looks for more</p> <p>4 tailored solutions to customer needs. They may, for</p> <p>5 example, create a strategy or an investment strategy</p> <p>6 for a customer, and they are involved in the</p> <p>7 structuring or the creation of the structuring in</p> <p>8 the back testing.</p> <p>9 Q. Would that potentially involve lending</p> <p>10 rates?</p> <p>11 MR. WASHER: Objection to the form.</p> <p>12 A. Would it involve lending rates? It's not</p> <p>13 obvious that it would.</p> <p>14 Q. What about terms of swaps?</p> <p>15 A. Terms of swaps may be specifically to a</p> <p>16 QIS strategy, but it would be -- I am just guessing</p> <p>17 here.</p> <p>18 Q. Okay. What about QIS, what does QIS do?</p> <p>19 A. QIS, again, it, for example, would be the</p> <p>20 creation of a strategy for a customer to invest in a</p> <p>21 particular way, and that's done in a systematic</p> <p>22 fashion, and the QIS is the vehicle by which a</p> <p>23 customer can invest in that type of strategy.</p> <p>24 Q. Okay.</p> <p>25 MR. SCHNEIDERMAN: Let's look at Tab BB.</p>

<p style="text-align: right;">Page 102</p> <p>1 LEONARDO MAYER</p> <p>2 This is marked as Exhibit 165.</p> <p>3 (Email marked Exhibit 165 for</p> <p>4 identification, as of this date.)</p> <p>5 BY MR. SCHNEIDERMAN:</p> <p>6 Q. Take a look at that.</p> <p>7 A. Right.</p> <p>8 Okay.</p> <p>9 Q. I am curious about -- first of all, do you</p> <p>10 recognize this document?</p> <p>11 A. Like I said before, I don't remember this</p> <p>12 specific document, but I can see that it looks like</p> <p>13 it's an email going over the different the risk</p> <p>14 parameters for XIV and TVIX, and it has sales, risk,</p> <p>15 and trading copied.</p> <p>16 Q. That's what I was going to ask about it,</p> <p>17 is the group of people here.</p> <p>18 A. Yes.</p> <p>19 Q. Sales, risk, and trading, you said?</p> <p>20 A. Yes.</p> <p>21 Q. The topic of conversation, as Paul Somma</p> <p>22 lays out, is removing the gates/conditions currently</p> <p>23 in place on creations of new TVIX ETNs.</p> <p>24 A. Right.</p> <p>25 Q. So I guess my question is: Why are these</p>	<p style="text-align: right;">Page 103</p> <p>1 LEONARDO MAYER</p> <p>2 the three teams that come together to discuss a</p> <p>3 topic like that?</p> <p>4 MR. WASHER: Objection to the form;</p> <p>5 foundation.</p> <p>6 A. Why are they the three teams that would</p> <p>7 come together? I think you have your risk, which</p> <p>8 oversees risk, you have Trading, which would manage</p> <p>9 the product, and you have sales that manages the --</p> <p>10 manages the product sales to customers, so I think</p> <p>11 this sounds like it was kind of an exploratory email</p> <p>12 between all of these participants on this topic.</p> <p>13 Q. Is this the course of business regarding,</p> <p>14 like, adjustments to creation guidelines that these</p> <p>15 three teams would be in touch with each other?</p> <p>16 MR. WASHER: Objection to the form.</p> <p>17 A. Yes, I think it is.</p> <p>18 Q. Okay.</p> <p>19 MR. SCHNEIDERMAN: Let's go to Tab T. And</p> <p>20 this was previously marked as Exhibit 97.</p> <p>21 THE WITNESS: Exhibit 97.</p> <p>22 Okay, opening that up.</p> <p>23 Okay.</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 104</p> <p>1 LEONARDO MAYER</p> <p>2 BY MR. SCHNEIDERMAN:</p> <p>3 Q. Do you recognize this?</p> <p>4 A. Similar to before, it's an exchange</p> <p>5 between Mel and me and Rob Sowler from October</p> <p>6 of '17.</p> <p>7 Q. October 24th, right?</p> <p>8 A. Yes.</p> <p>9 Q. So we are going to look at the attachment</p> <p>10 here. You see there's an attachment, "XIV Q and A"?</p> <p>11 A. I do.</p> <p>12 Q. But before we look at that, do you see the</p> <p>13 subject line is "Notes for Tomorrow's Session"?</p> <p>14 Do you know what that's in reference to?</p> <p>15 A. I don't remember that, no.</p> <p>16 Q. Okay.</p> <p>17 MR. SCHNEIDERMAN: Let's pull up the</p> <p>18 attachment, which is Tab U. And this was</p> <p>19 previously marked Exhibit 98.</p> <p>20 THE WITNESS: Okay. Exhibit 98, I am</p> <p>21 opening that.</p> <p>22 Okay.</p> <p>23 BY MR. SCHNEIDERMAN:</p> <p>24 Q. Do you recognize this document?</p> <p>25 A. I don't remember this document, no.</p>	<p style="text-align: right;">Page 105</p> <p>1 LEONARDO MAYER</p> <p>2 Q. So it appears to be a general Q and A</p> <p>3 around XIV and TVIX, does that seem right?</p> <p>4 A. Yes.</p> <p>5 Q. Who would have drafted a document like</p> <p>6 this?</p> <p>7 MR. WASHER: Objection to the form;</p> <p>8 foundation.</p> <p>9 A. Who would have drafted it? It would have,</p> <p>10 again, likely have been a collaboration between</p> <p>11 sales and the COO team.</p> <p>12 Q. And who would they get circulated to?</p> <p>13 MR. WASHER: Objection to form.</p> <p>14 A. Who would it have been circulated to?</p> <p>15 Again, likely other stakeholders in the business,</p> <p>16 including senior management and other -- perhaps</p> <p>17 risk as well.</p> <p>18 Q. Do you have any recollection as to why a Q</p> <p>19 and A around XIV would be put together at this time,</p> <p>20 late October --</p> <p>21 A. I don't -- I don't remember the specific</p> <p>22 meeting or this document.</p> <p>23 Q. Okay.</p> <p>24 MR. SCHNEIDERMAN: Let's pull up Tab D,</p> <p>25 which was previously marked Exhibit 99.</p>

<p style="text-align: right;">Page 106</p> <p>1 LEONARDO MAYER</p> <p>2 BY MR. SCHNEIDERMAN:</p> <p>3 Q. Take a minute.</p> <p>4 A. Exhibit 99, yes.</p> <p>5 Okay.</p> <p>6 Q. Do you recognize this document?</p> <p>7 A. Again, I don't recall this specific</p> <p>8 exchange, but it looks like it's a Bloomberg instant</p> <p>9 messenger conversation between Paul Somma, Mel, and</p> <p>10 I.</p> <p>11 Q. From October 31st, 2017?</p> <p>12 A. That's right.</p> <p>13 Q. Okay. So if you look at Page 2, the</p> <p>14 middle of that page, you ask Paul Somma for an</p> <p>15 explanation on what date exactly the risk would</p> <p>16 unwind from an accelerated event, the one where XIV</p> <p>17 is 80 percent --</p> <p>18 A. Yes.</p> <p>19 Q. What do you mean by the date the risk</p> <p>20 would unwind?</p> <p>21 A. I think this was just part of a general</p> <p>22 conversation we were having about, like any</p> <p>23 business, you are trying to plan to see what -- how</p> <p>24 you would manage risk in different situations, and I</p> <p>25 think what I am asking here is that if -- if, for</p>	<p style="text-align: right;">Page 107</p> <p>1 LEONARDO MAYER</p> <p>2 example, CS chose to accelerate the termination of</p> <p>3 XIV, when that would actually materialize, so in</p> <p>4 other words, thinking about when we would actually</p> <p>5 have that risk come off the books and when we would</p> <p>6 have to enter hedges.</p> <p>7 Q. So in terms of what date exactly the risk</p> <p>8 would unwind, is that --</p> <p>9 A. Yes.</p> <p>10 Q. -- is that the date at which the</p> <p>11 redemption price gets locked in, is that the date at</p> <p>12 which the notes are actually redeemed? How would</p> <p>13 you define that?</p> <p>14 A. I think I was asking about, yes, when</p> <p>15 essentially the notes are terminated and they are</p> <p>16 redeemed for whatever cash value they have at the</p> <p>17 time.</p> <p>18 Q. So the date of redemption?</p> <p>19 A. Yes, the date at which there is no longer</p> <p>20 market risk in the note. There is -- the note has</p> <p>21 terminated, and it's purely cash.</p> <p>22 Q. You see, my -- where I get confused is if</p> <p>23 the -- there's the valuation date, and then sometime</p> <p>24 later is the actual redemption. So in terms of when</p> <p>25 the risk is off the books, I am trying to understand</p>
<p style="text-align: right;">Page 108</p> <p>1 LEONARDO MAYER</p> <p>2 if that's when that price gets locked in or when the</p> <p>3 notes are actually redeemed.</p> <p>4 Do you see the distinction?</p> <p>5 A. Are you talking about the difference</p> <p>6 between when -- when you basically have the</p> <p>7 settlement price, and then it actually settles where</p> <p>8 the cash exchanges, right?</p> <p>9 Q. Right?</p> <p>10 A. I think I am asking more when the actual</p> <p>11 trade terminates, not some much the actual</p> <p>12 settlement date, meaning when the actual cash is</p> <p>13 exchanged, because that would be important for our</p> <p>14 risk management.</p> <p>15 Q. Okay. And then a little bit lower down,</p> <p>16 you ask to please discuss offline.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Is there a reason you would want to</p> <p>20 discuss offline?</p> <p>21 A. I think it would just have been easier</p> <p>22 just to discuss it just in person. We sat a couple</p> <p>23 of rows from each other.</p> <p>24 Q. Do you recall anything from that</p> <p>25 conversation?</p>	<p style="text-align: right;">Page 109</p> <p>1 LEONARDO MAYER</p> <p>2 A. I don't specifically, no.</p> <p>3 Q. In response, Paul Somma says, "Ideally, we</p> <p>4 provide notice to Exchange on same date VIX ETN is</p> <p>5 down 80 percent or more."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Is that to avoid the possibility of a</p> <p>9 rebound the next day?</p> <p>10 MR. WASHER: Objection to the form;</p> <p>11 foundation.</p> <p>12 A. No, I don't think that's the case. I</p> <p>13 don't think so.</p> <p>14 Q. What is your interpretation of what he</p> <p>15 means there?</p> <p>16 A. As I read this again, I don't exactly</p> <p>17 understand the mechanics that clearly, it has been</p> <p>18 several years since then, but I think, again, what</p> <p>19 we were asking for is if you have an acceleration</p> <p>20 event, when that's communicated, when does that</p> <p>21 actually happen in the market, and then when does</p> <p>22 the trade settle.</p> <p>23 So it's not clear to me -- it's not clear</p> <p>24 to me what he's actually saying there. Acceleration</p> <p>25 value date has to be at least seven business dates</p>

<p style="text-align: right;">Page 110</p> <p>1 LEONARDO MAYER</p> <p>2 after we provide notice to the Exchange. I would</p> <p>3 have to have that conversation again with him.</p> <p>4 Q. Okay. So, yes, he's talking here about</p> <p>5 the time between the notice of an acceleration and</p> <p>6 the acceleration valuation date?</p> <p>7 A. Yes.</p> <p>8 Q. What are the expectations around the</p> <p>9 impact to the price of XIV when the acceleration is</p> <p>10 announced?</p> <p>11 MR. WASHER: Objection to the form;</p> <p>12 foundation. Whose expectations?</p> <p>13 Q. You can answer.</p> <p>14 A. Can you -- sorry, can you rephrase your</p> <p>15 question? Can you say your question again?</p> <p>16 Q. What were your expectations around the</p> <p>17 impact that the announcement of an acceleration</p> <p>18 event would have on the price of XIV?</p> <p>19 A. My expectations on the impacts of an</p> <p>20 acceleration event, I never -- I never would have</p> <p>21 thought that there would have been an acceleration</p> <p>22 event unless -- you know, unless, I guess, the --</p> <p>23 the XIV went down, and we chose to do it at that</p> <p>24 point. I don't know, it's something I didn't really</p> <p>25 think about.</p>	<p style="text-align: right;">Page 111</p> <p>1 LEONARDO MAYER</p> <p>2 Q. That's a little bit different than -- so</p> <p>3 my question is: Assuming an acceleration event is</p> <p>4 announced, what is the expectation for what that</p> <p>5 does to the XIV price?</p> <p>6 A. What does it do to the XIV price? If you</p> <p>7 are going to accelerate the event, at that point you</p> <p>8 would have to -- you would have to exit the hedges,</p> <p>9 which means you would be buying back XIV -- I'm</p> <p>10 sorry, VIX futures, and then you would terminate --</p> <p>11 you would terminate the contract, but it's not</p> <p>12 obvious exactly what would happen.</p> <p>13 Q. It's not obvious what would happen to the</p> <p>14 price of XIV upon an announcement that it's</p> <p>15 ultimately going to terminate?</p> <p>16 A. No.</p> <p>17 Q. Why is that not obvious?</p> <p>18 MR. WASHER: Objection to the form.</p> <p>19 A. We have never -- we have never terminated</p> <p>20 one before, so I don't have historical experience of</p> <p>21 what that would have done, but from what we have</p> <p>22 seen of what did happen, we terminated XIV, and the</p> <p>23 price basically -- that was it, it was terminated</p> <p>24 and it was unallowed.</p> <p>25 Q. I am sorry, I didn't understand the last</p>
<p style="text-align: right;">Page 112</p> <p>1 LEONARDO MAYER</p> <p>2 part there.</p> <p>3 A. What I am saying is we had never</p> <p>4 terminated one before in the market. The only</p> <p>5 example I can point to is the one that, as you know,</p> <p>6 XIV was terminated, and after that, the cash was</p> <p>7 returned, whatever was left on the note, and we</p> <p>8 exited whatever finalizers we had, and the market</p> <p>9 impact at that point was very little because the</p> <p>10 price of the note had already gone down so much.</p> <p>11 Q. There's a lot of discussion about the</p> <p>12 acceleration clauses leading up to February 2018.</p> <p>13 There is -- you are saying there was no expectation</p> <p>14 of how an acceleration event would be perceived in</p> <p>15 the market?</p> <p>16 MR. WASHER: Objection to the form;</p> <p>17 foundation.</p> <p>18 A. There was no expectation of what would</p> <p>19 happen, you mean?</p> <p>20 Q. Meaning the price impact of announcing an</p> <p>21 acceleration, no one on your team formulated</p> <p>22 expectations about what that would do to the price</p> <p>23 of XIV?</p> <p>24 A. I don't recall specifically having a</p> <p>25 conversation about that, no.</p>	<p style="text-align: right;">Page 113</p> <p>1 LEONARDO MAYER</p> <p>2 Q. Okay.</p> <p>3 MR. SCHNEIDERMAN: Let's go to Tab BQ.</p> <p>4 MR. WASHER: Brendan, we have been going a</p> <p>5 little over an hour. Is now a good time to</p> <p>6 take a lunch break?</p> <p>7 MR. SCHNEIDERMAN: I would say I maybe</p> <p>8 have an hour left. If you want to break for</p> <p>9 lunch, that's fine.</p> <p>10 THE VIDEOGRAPHER: We are going off the</p> <p>11 record at 12:50.</p> <p>12 (Luncheon Recess)</p> <p>13 (Time noted: 12:50 p.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 114</p> <p>1 LEONARDO MAYER</p> <p>2 A F T E R N O O N S E S S I O N</p> <p>3 (Time noted: 1:31 p.m.)</p> <p>4 THE VIDEOGRAPHER: The time is 1:31. We</p> <p>5 are back on the record.</p> <p>6 MR. SCHNEIDERMAN: Okay. Let's pull up</p> <p>7 document marked Tab BQ, Q as in queen.</p> <p>8 And this will be marked as Exhibit 166.</p> <p>9 (11/2017 email chain between Mel Oechslin</p> <p>10 and Leonardo Mayer marked Exhibit 166 for</p> <p>11 identification, as of this date.)</p> <p>12 BY MR. SCHNEIDERMAN:</p> <p>13 Q. Let me know when you --</p> <p>14 A. My screen says, "Presenter has locked your</p> <p>15 screen."</p> <p>16 Is that something you need to unlock?</p> <p>17 Q. Rob can take care of that.</p> <p>18 A. Okay.</p> <p>19 Okay, I am with you.</p> <p>20 Q. Do you recognize this document?</p> <p>21 A. Similar to before, I don't remember this</p> <p>22 specific email. It looks like it's an exchange</p> <p>23 between Mel and I from November of '17.</p> <p>24 Q. And here, Mel is flagging for you -- the</p> <p>25 subject line is "2017 XIV Swaps"?</p>	<p style="text-align: right;">Page 115</p> <p>1 LEONARDO MAYER</p> <p>2 A. Right.</p> <p>3 Q. So the date of this email is November 2nd.</p> <p>4 You see the column marked "Valuation</p> <p>5 Date"?</p> <p>6 A. Yes.</p> <p>7 Q. Is that the date at which these swaps</p> <p>8 expire?</p> <p>9 A. I think so.</p> <p>10 Q. So is it flagging for you the volume of</p> <p>11 swaps that are expiring in the next month and a</p> <p>12 half?</p> <p>13 A. That's what it looks like, yes.</p> <p>14 Q. And would that be because once those</p> <p>15 expire, Credit Suisse then incurs the risk</p> <p>16 associated with those notes?</p> <p>17 MR. WASHER: Objection to form; function;</p> <p>18 speculation.</p> <p>19 Q. I couldn't hear your answer.</p> <p>20 A. Can you ask one more time?</p> <p>21 Q. Sure.</p> <p>22 MR. SCHNEIDERMAN: Could the court</p> <p>23 reporter read that back.</p> <p>24 (Requested portion read back)</p> <p>25 A. It looks like this email is flagging swaps</p>
<p style="text-align: right;">Page 116</p> <p>1 LEONARDO MAYER</p> <p>2 we have on, when they are expiring, and why Mel sent</p> <p>3 that to me is likely, yes, to tell me that, yes, we</p> <p>4 would be looking at the risk that we would have when</p> <p>5 the swaps expire, yes, that's right.</p> <p>6 Q. This also seems to suggest that the terms</p> <p>7 of the swaps are three months.</p> <p>8 Is that your understanding, looking at</p> <p>9 this?</p> <p>10 A. That's what it looks like, yes.</p> <p>11 Q. Okay.</p> <p>12 MR. SCHNEIDERMAN: Let's go to Tab BU.</p> <p>13 And we will mark this Exhibit 167.</p> <p>14 (11/7/17 email between Leonardo Mayer, Mel</p> <p>15 Oechslin, Rob Sowler, and Mike Ebert marked</p> <p>16 Exhibit 167 for identification, as of this</p> <p>17 date.)</p> <p>18 BY MR. SCHNEIDERMAN:</p> <p>19 Q. Take a moment to look at it.</p> <p>20 A. Right.</p> <p>21 Okay.</p> <p>22 Q. Do you recognize this document?</p> <p>23 A. Similar to before, I don't recall this</p> <p>24 exact email, but it looks like it's an exchange</p> <p>25 between me, Mel, Rob Sowler, Mike Ebert, and it's</p>	<p style="text-align: right;">Page 117</p> <p>1 LEONARDO MAYER</p> <p>2 from November 7th of '17.</p> <p>3 Q. Okay. So let's turn to the third page,</p> <p>4 which is the beginning of the email chain.</p> <p>5 A. Right.</p> <p>6 Q. So Mel is letting Russ Davidson and</p> <p>7 Brenden Bailey know, "We are awaiting new guidelines</p> <p>8 from you to start executing on a bigger scale to get</p> <p>9 to our desired size."</p> <p>10 Do you see that?</p> <p>11 A. We are -- yes, okay.</p> <p>12 THE VIDEOGRAPHER: This is the</p> <p>13 videographer.</p> <p>14 Can the witness turn himself just a little</p> <p>15 more?</p> <p>16 THE WITNESS: Yes, I can move this,</p> <p>17 probably.</p> <p>18 Is that better?</p> <p>19 THE VIDEOGRAPHER: Yes, thank you.</p> <p>20 THE WITNESS: Okay.</p> <p>21 BY MR. SCHNEIDERMAN:</p> <p>22 Q. The guidelines that Mel is referring to</p> <p>23 here, those are the -- that's Credit Suisse's</p> <p>24 tolerance for the premium paid relative to NAV,</p> <p>25 right?</p>

<p style="text-align: right;">Page 118</p> <p>1 LEONARDO MAYER</p> <p>2 A. I think so, yes.</p> <p>3 Q. And that's regarding the buyback of XIV</p> <p>4 notes?</p> <p>5 A. Right, in the open market.</p> <p>6 Q. All right. And then Russ Davidson, who is</p> <p>7 Russ Davidson?</p> <p>8 A. Russ Davidson is one of the members of</p> <p>9 the -- of the -- the risk -- not the risk -- one of</p> <p>10 the control functions.</p> <p>11 Q. Okay.</p> <p>12 A. Pardon me, I am searching for the right</p> <p>13 word. He's part of the compliance team.</p> <p>14 Q. Okay. So he says he can update you all</p> <p>15 tomorrow, and then the next day, he says, at</p> <p>16 10:00 a.m., there's a follow-up call that afternoon.</p> <p>17 Do you see that?</p> <p>18 A. Yes, I do.</p> <p>19 Q. And then you respond at 1:45 asking for an</p> <p>20 update?</p> <p>21 A. Right.</p> <p>22 Q. And then at 2:30, Russ says the call has</p> <p>23 to be pushed back to the next day?</p> <p>24 A. Okay.</p> <p>25 Q. And then you note to Russ, "I want to</p>	<p style="text-align: right;">Page 119</p> <p>1 LEONARDO MAYER</p> <p>2 stress again that we should please be moving with a</p> <p>3 sense of urgency on this open item to allow us to</p> <p>4 engage in risk reducing trades at attractive levels</p> <p>5 for our ETN portfolio"?</p> <p>6 A. Right.</p> <p>7 Q. Why the urgency?</p> <p>8 A. The urgency is, I think, if I remember</p> <p>9 correctly and looking at this graph, it looks like</p> <p>10 we wanted to buy XIV notes to reduce our risk, and</p> <p>11 they were trading close to NAV, and it seemed like</p> <p>12 an opportune time in the market to do so.</p> <p>13 Q. Did you generally circulate emails calling</p> <p>14 for a sense of urgency when you saw an opportunity,</p> <p>15 like a trade opportunity regarding premiums?</p> <p>16 MR. WASHER: Objection to the form.</p> <p>17 A. Did I do it often? No, but I think this</p> <p>18 situation merited it.</p> <p>19 Q. Why is that?</p> <p>20 A. Again, we are not in the business of</p> <p>21 managing risk and doing so in an appropriate manner</p> <p>22 in the market, and this presented itself as a good</p> <p>23 chance to do so.</p> <p>24 Q. Okay. And at the end -- so if you go to</p> <p>25 the third top of the document --</p>
<p style="text-align: right;">Page 120</p> <p>1 LEONARDO MAYER</p> <p>2 A. Right.</p> <p>3 Q. -- Russ adds Rich O'Keefe to the</p> <p>4 conversation.</p> <p>5 Do you know who Rich is?</p> <p>6 A. I can't place the name now. I can't</p> <p>7 remember who that is.</p> <p>8 Q. Okay. Does the context of the email give</p> <p>9 you a sense of why he would be added?</p> <p>10 A. No. I just don't remember who Richard</p> <p>11 O'Keefe is.</p> <p>12 Q. Okay. What would the process be like for</p> <p>13 adjusting these guidelines?</p> <p>14 A. What would be the process of adjusting the</p> <p>15 guidelines? We were deferring to compliance to make</p> <p>16 sure that we were -- we were conducting the trades</p> <p>17 in an open market in an appropriate fashion, and we</p> <p>18 were waiting for them to get a clearance on whether</p> <p>19 or not we could do so, I think, at the moment there.</p> <p>20 Q. So the interest in adjusting the</p> <p>21 guidelines starts with your desk, and then you</p> <p>22 reported to compliance for sign-off, or how does</p> <p>23 that work?</p> <p>24 A. We would ask compliance, can we purchase</p> <p>25 XIV in the market, how much can we purchase, and</p>	<p style="text-align: right;">Page 121</p> <p>1 LEONARDO MAYER</p> <p>2 they would basically come back to us with the</p> <p>3 guidance of how much was -- was -- if it was okay to</p> <p>4 do so.</p> <p>5 Q. So is this a -- if we turn back, it might</p> <p>6 be helpful to look at the third page. There is a</p> <p>7 message from Mel.</p> <p>8 A. Right.</p> <p>9 Q. I guess what I am trying to get at is if</p> <p>10 this is something that needs to happen every time</p> <p>11 you want to initiate a new buyback, or is it for</p> <p>12 every trade, or what's the cadence with which you</p> <p>13 would need to get new guidelines?</p> <p>14 A. What's the cadence? We would -- as far as</p> <p>15 I recall, every time we were trading XIV in the open</p> <p>16 market, out of an abundance of caution to make sure</p> <p>17 that we were operating under appropriate -- in an</p> <p>18 appropriate way, we would check in with compliance.</p> <p>19 Q. Do you see where Mel says he wants new</p> <p>20 guidelines to start executing on a bigger scale?</p> <p>21 A. Yes.</p> <p>22 Q. To get to our desired size?</p> <p>23 A. Okay.</p> <p>24 Q. So what does that mean?</p> <p>25 A. I think we just wanted to purchase more.</p>

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1 LEONARDO MAYER

2 I don't recall the exact amount that we were looking

3 to buy back, but it looks like we were looking to do

4 more than maybe 100,000 shares a day.

5 Q. Okay.

6 MR. SCHNEIDERMAN: Let's go to Tab BE, E

7 as in Edward.

8 And this will be marked as Exhibit 168.

9 (11/22/17 email between Mel Oechslein,

10 Michael Ebert, Robert Sowler, and Leonardo

11 Mayer marked Exhibit 168 for identification, as

12 of this date.)

13 THE WITNESS: Okay.

14 BY MR. SCHNEIDERMAN:

15 Q. Okay. Do you recognize this document?

16 A. Similar to before, I don't recall this

17 exact one, but it looks like it's an email between

18 Mel and Ebert, Sowler, me, with an update on the XIV

19 buyback dated November 22nd, 2017.

20 Q. Here, Mel is summarizing the premiums

21 above NAV paid to buy back XIV?

22 A. That's right.

23 Q. And over the course of November -- so, he

24 says in the email this is since November 3rd, 2017.

25 A. Right.

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1 LEONARDO MAYER

2 the number of shares bought back.

3 So here, Mel is identifying --

4 A. Yes.

5 Q. -- an additional 2 million shares that the

6 desk wants to buy back?

7 A. Yes. Yes, that's right.

8 Q. Okay. Does this give you any further

9 recollection about kind of the process for getting

10 approval to do something like that, just the

11 people -- go ahead.

12 A. Not beyond what we discussed,

13 Mr. Schneiderman. We would speak to compliance and

14 make sure we were all on the same page of what we

15 were going to do, and looped into that were the

16 managers and COO of the department as well.

17 Q. Your supervisors were aware of the crash

18 risk inherent to XIV, right?

19 MR. WASHER: Objection to the form.

20 A. Yes.

21 Q. Sorry, you can answer.

22 A. Yes.

23 MR. SCHNEIDERMAN: Can we pull up Tab AA.

24 This was previously introduced as Exhibit 102.

25 THE WITNESS: So we are looking at Exhibit

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1 LEONARDO MAYER

2 Q. So over the course of November 2017, we

3 see the premium above NAV is somewhere between 14

4 and 32 basis points?

5 A. Yes.

6 Q. What's the point of circulating this

7 information?

8 A. I think it's just a general update on what

9 we have done to update -- it looks like me, and

10 Sowler, and Ebert -- on the progress of the risk

11 production in the portfolio.

12 Q. Do you have an understanding of what Mike

13 Ebert or Rob Sowler would do with this?

14 A. Beyond taking the information in, no.

15 Q. Okay.

16 MR. SCHNEIDERMAN: Let's go to Tab AG.

17 This was previously introduced as Exhibit 105.

18 THE WITNESS: Okay.

19 BY MR. SCHNEIDERMAN:

20 Q. Do you recognize this document?

21 A. Similar to before, I don't recall this

22 specific email, but this looks like an update or an

23 exchange with compliance again on the XIV repurchase

24 in the market from December 8th, '17.

25 Q. You mentioned before not recalling exactly

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1 LEONARDO MAYER

2 102, right?

3 BY MR. SCHNEIDERMAN:

4 Q. Correct.

5 A. Okay.

6 Q. Do you recognize this document?

7 A. Same as before, it's not one that I

8 remember specifically, but it looks like it's an

9 exchange about the XIV knockout level between me,

10 Ebert, and copied is Rob Sowler and Mel, from

11 October 19, 2017.

12 Q. So at the bottom of that top paragraph,

13 Mel tells the group, "7.5 percent to 10.5 percent

14 selloff in STX leading to a knockout level in XIV."

15 Do you see that?

16 A. I do.

17 Q. Do you remember having a reaction to that

18 analysis?

19 A. Not specifically.

20 Q. Do you remember Ebert or Sowler having a

21 reaction to it?

22 A. Not beyond what Ebert wrote in this email

23 right here.

24 Q. So I think that the analysis from Mel

25 comes after -- that the sentence that I just

<p style="text-align: right;">Page 126</p> <p>1 LEONARDO MAYER</p> <p>2 referred to --</p> <p>3 A. Pardon, yes, there was one -- one estimate</p> <p>4 of what it could be previously. You were replied to</p> <p>5 it on Mel's last email here, the one from 1/18/19.</p> <p>6 I don't recall what the reaction was from Ebert or</p> <p>7 Sowler to that.</p> <p>8 Q. Okay. Yes, let's actually take a look at</p> <p>9 that second page.</p> <p>10 So you provide an initial estimate a --</p> <p>11 for full context here, you asked Mel for what spot</p> <p>12 bonds in STX would result in VIX levels where XIV</p> <p>13 goes to zero?</p> <p>14 A. Yes.</p> <p>15 Q. He gets back to you with an estimate of a</p> <p>16 24 percent selloff?</p> <p>17 A. Right.</p> <p>18 Q. And Mike Ebert responds, "Seems far too</p> <p>19 low"?</p> <p>20 A. Right.</p> <p>21 Q. What does he mean by that?</p> <p>22 A. We were looking at, as you mentioned</p> <p>23 yourself -- can I proceed.</p> <p>24 Q. Go ahead.</p> <p>25 A. Yes, so the question we are trying to</p>	<p style="text-align: right;">Page 127</p> <p>1 LEONARDO MAYER</p> <p>2 answer is at what level of spot move and bold move</p> <p>3 would the XIV knock out essentially, and the chain</p> <p>4 really is some guesses as to what that would be. Of</p> <p>5 course, we don't know exactly what that would have</p> <p>6 been, but given some assumptions on spot and</p> <p>7 volatility, we come up with different estimates as</p> <p>8 to what that would be.</p> <p>9 Q. So, what Mike Ebert is saying, then, is</p> <p>10 that the 24 percent selloff is a larger selloff than</p> <p>11 he believes would be required?</p> <p>12 A. That's right. That's his first kind of --</p> <p>13 it sounds like kind of like an off-the-cuff remark.</p> <p>14 On that first kind of assumption, he thinks that</p> <p>15 that's too much of a selloff. He would expect to</p> <p>16 knock out with less of a selloff.</p> <p>17 Q. Okay.</p> <p>18 MR. SCHNEIDERMAN: Let's go to Tab BC.</p> <p>19 And this will be Exhibit 169.</p> <p>20 (1/5/18 email from Michael Ebert to Paul</p> <p>21 Somma, Mel Oechslein, and Leonardo Mayer marked</p> <p>22 Exhibit 169 for identification, as of this</p> <p>23 date.)</p> <p>24 THE WITNESS: Okay, yes.</p> <p>25</p>
<p style="text-align: right;">Page 128</p> <p>1 LEONARDO MAYER</p> <p>2 BY MR. SCHNEIDERMAN:</p> <p>3 Q. Go ahead and take a look at it.</p> <p>4 A. Right.</p> <p>5 Okay.</p> <p>6 Q. Do you recognize this document?</p> <p>7 A. Same as before, I don't remember this</p> <p>8 exact document, but I can see it is -- it looks like</p> <p>9 it's something about extending the swap terms for</p> <p>10 XIV from January 5th, '18, between Ebert -- sent</p> <p>11 from Ebert to Somma, Mel and I, and Rob Montefiore</p> <p>12 as well.</p> <p>13 Q. This is a meeting invitation, right?</p> <p>14 A. It is a meeting invitation, right. Okay,</p> <p>15 yes.</p> <p>16 Q. And the subject, as you said, is extending</p> <p>17 swap terms for XIV?</p> <p>18 A. Right.</p> <p>19 Q. Do you remember anything about this</p> <p>20 meeting?</p> <p>21 A. I do not.</p> <p>22 Q. Okay. Do you know who would have called</p> <p>23 this meeting?</p> <p>24 A. I don't remember specifically.</p> <p>25 Q. Does the fact that it's in Michael Ebert's</p>	<p style="text-align: right;">Page 129</p> <p>1 LEONARDO MAYER</p> <p>2 office suggest anything about who would have called</p> <p>3 it?</p> <p>4 A. I would guess it was probably Ebert that</p> <p>5 called it.</p> <p>6 Q. Okay. Do you recall if you ultimately did</p> <p>7 extend the terms for XIV swaps?</p> <p>8 A. I think we did, but my memory, again, is a</p> <p>9 little bit foggy since it's been several years, but</p> <p>10 I think we switched it from three months to six</p> <p>11 months, but I would have to double-check on that.</p> <p>12 Q. Your memory is good.</p> <p>13 MR. SCHNEIDERMAN: We can pull up Tab BD.</p> <p>14 This Exhibit 170.</p> <p>15 (1/5/18 email from Paul Somma to Lisa</p> <p>16 marked Exhibit 170 for identification, as of</p> <p>17 this date.)</p> <p>18 THE WITNESS: Okay.</p> <p>19 BY MR. SCHNEIDERMAN:</p> <p>20 Q. Do you recognize this document?</p> <p>21 A. I was just reading through it. So this</p> <p>22 looks like it's some more detail extending the</p> <p>23 maturity of the XIV swaps done with creations, and</p> <p>24 it's from Paul Somma to Lisa, who worked for him,</p> <p>25 and copying the trading desk and supervisors on</p>

<p style="text-align: right;">Page 130</p> <p>1 LEONARDO MAYER</p> <p>2 Jan. 5th, '18.</p> <p>3 Q. So this is confirmation that the swaps</p> <p>4 were extended from three months to six months?</p> <p>5 A. That's what it appears, that's right.</p> <p>6 Q. Why would that be done?</p> <p>7 MR. WASHER: Objection to the form.</p> <p>8 A. This was done, again, to try to risk</p> <p>9 manage the product in terms of the exposures to</p> <p>10 Credit Suisse and also to try to -- try to, you</p> <p>11 know, control the AUM of the product.</p> <p>12 Q. When you say "risk manage," you mean</p> <p>13 reduce the risk?</p> <p>14 A. That's right.</p> <p>15 Q. Okay. Who would be involved in making the</p> <p>16 decision to extend swap terms?</p> <p>17 A. Who would be involved in the decision</p> <p>18 to -- well, it would have been Paul Somma and likely</p> <p>19 Mike Ebert's -- Mike Ebert's call as well.</p> <p>20 Q. Would they need approval from their</p> <p>21 supervisors to do that?</p> <p>22 A. I don't know specifically. I would</p> <p>23 imagine -- I am not sure.</p> <p>24 Q. Okay.</p> <p>25 MR. SCHNEIDERMAN: Let's pull up Tab BG.</p>	<p style="text-align: right;">Page 131</p> <p>1 LEONARDO MAYER</p> <p>2 Q. Take a minute to get familiar with it. I</p> <p>3 am going to have a few questions about it.</p> <p>4 A. Okay.</p> <p>5 Okay.</p> <p>6 MR. SCHNEIDERMAN: Okay. So this is</p> <p>7 Exhibit 171, if I didn't say it before.</p> <p>8 (1/2018 email between Philippe Carrier,</p> <p>9 Michael Ebert, Robert Sowler, Leonardo Mayer,</p> <p>10 and Mel Oechslein marked Exhibit 171 for</p> <p>11 identification, as of this date.)</p> <p>12 BY MR. SCHNEIDERMAN:</p> <p>13 Q. So at the very bottom, this starts with an</p> <p>14 email from Mike Ebert to Tair Aurmont.</p> <p>15 Do you recognize this document?</p> <p>16 A. The same as before, I don't recall this</p> <p>17 specific email, but I can see it's an exchange</p> <p>18 between Carrier, Ebert, Sowler, me, and probably Mel</p> <p>19 around January of '18, and we are talking about the</p> <p>20 different -- we are looking at the risks in the</p> <p>21 portfolio given the notes and the hedges we have in</p> <p>22 place.</p> <p>23 Q. Okay. So, Mike Ebert's original question</p> <p>24 is, "Can you show me the RT vega slide by desk?"</p> <p>25 I think that means realtime?</p>
<p style="text-align: right;">Page 132</p> <p>1 LEONARDO MAYER</p> <p>2 A. That means route time vega. That's a way</p> <p>3 to normalize vega with respect to time, but it's a</p> <p>4 measure of vega risk, yes.</p> <p>5 Q. What is route time vega slide, what does</p> <p>6 that mean?</p> <p>7 A. That means we are looking at the vega</p> <p>8 sensitivity of the books of the portfolio across</p> <p>9 different levels of spot. So what does that</p> <p>10 exposure look like with the market year, what does</p> <p>11 exposure look like with the market down 5, 10,</p> <p>12 15 percent.</p> <p>13 Q. Okay. So just to kind of break that down,</p> <p>14 I understand vega to mean sensitivity to changes in</p> <p>15 volatility; is that right?</p> <p>16 A. That's right.</p> <p>17 Q. So you are looking at these changes in</p> <p>18 sensitivity to volatility as a function of different</p> <p>19 market prices?</p> <p>20 A. We are looking at that exposure, which you</p> <p>21 say, Mr. Schneiderman, is the sensitivity of the</p> <p>22 portfolio to changes in volatility, and that</p> <p>23 sensitivity is going to change based upon where you</p> <p>24 are in spot. It will be different in spot at flat</p> <p>25 or in spot with a market crash eventually.</p>	<p style="text-align: right;">Page 133</p> <p>1 LEONARDO MAYER</p> <p>2 Q. By spot, you mean market prices?</p> <p>3 A. Yes, yes.</p> <p>4 Q. Do you know why Mike Ebert would be asking</p> <p>5 for that information?</p> <p>6 A. Our oversight over the risk of the book,</p> <p>7 whether it's measured in vega or any of the other</p> <p>8 ways, it's something that we would routinely do as a</p> <p>9 business every day, many times a day. So this would</p> <p>10 have been something that would have been routine,</p> <p>11 especially if we were looking through the portfolio.</p> <p>12 Q. Okay. And then if we scroll up to Page 4,</p> <p>13 Mike Ebert then asks, "What's driving RT vega</p> <p>14 downside"?</p> <p>15 A. I am trying to get to that. What is</p> <p>16 driving the RT vega on the downside?</p> <p>17 Okay, right.</p> <p>18 Q. What does that mean?</p> <p>19 A. He is noting that, as you can see in the</p> <p>20 email before, down 15 percent, it looks -- I think</p> <p>21 this is a block information here of the route time</p> <p>22 vega. The route time vega of the business down</p> <p>23 15 percent is \$14 million, of which index is -- flow</p> <p>24 index is 18.6. So it's a large contributor of that</p> <p>25 number.</p>

<p style="text-align: right;">Page 134</p> <p>1 LEONARDO MAYER</p> <p>2 And so he was asking what was driving that</p> <p>3 downside.</p> <p>4 Q. Why would he want that information?</p> <p>5 MR. WASHER: Objection to the form;</p> <p>6 foundation.</p> <p>7 A. He would want that information from -- you</p> <p>8 know, any risk manager would look through the slide</p> <p>9 of its business, meaning analyzing how it behaves</p> <p>10 and what risks you have across different levels of</p> <p>11 spot or cash prices.</p> <p>12 So, again, it would be something routine</p> <p>13 for a risk manager to ask questions about.</p> <p>14 Q. Okay. So going up to -- if we go up to</p> <p>15 the first page --</p> <p>16 A. Right.</p> <p>17 Q. -- on January --</p> <p>18 A. Okay.</p> <p>19 Q. -- on January 17th, Mr. Ebert asks you,</p> <p>20 "Do we have any update on XIV risk recycling with</p> <p>21 clients"?</p> <p>22 A. Right.</p> <p>23 Q. What is risk recycling?</p> <p>24 A. Risk recycling in this instance refers to</p> <p>25 finding a way to edge the risk or lay off some of</p>	<p style="text-align: right;">Page 135</p> <p>1 LEONARDO MAYER</p> <p>2 the risk with clients who are in the market.</p> <p>3 Q. Is that Credit Suisse's risk or the</p> <p>4 clients' risk?</p> <p>5 A. This would be our Credit Suisse's risk.</p> <p>6 Q. Okay. And then she says, "I thought Wild</p> <p>7 Cat was interested."</p> <p>8 A. Yes.</p> <p>9 Q. What is Wild Cat?</p> <p>10 A. Wild Cat was the name for a hedge fund.</p> <p>11 Q. So what does that mean, they are</p> <p>12 interested?</p> <p>13 A. Interested meaning I think he's asking</p> <p>14 whether or not Wild Cat, the hedge fund, was</p> <p>15 interested in taking over some of the -- some of the</p> <p>16 hedges for the XIV risk.</p> <p>17 Q. Would that be through lending?</p> <p>18 A. Well, I don't recall what format it would</p> <p>19 have been. It could have been something like an</p> <p>20 offsetting swap, like we had discussed similar to</p> <p>21 the hedges that were put on for the creations, but</p> <p>22 the big picture here is that we were looking for</p> <p>23 trading partners to try to lay off some of the risks</p> <p>24 that we had on our books as a result of the ETN</p> <p>25 business.</p>
<p style="text-align: right;">Page 136</p> <p>1 LEONARDO MAYER</p> <p>2 Q. Okay. And then you respond, "We have not</p> <p>3 had much success in the knock-in forward format."</p> <p>4 Is that another way of saying you are</p> <p>5 struggling to find entities who want to take on that</p> <p>6 risk?</p> <p>7 A. Yes. This one looks like -- I don't</p> <p>8 remember the specifics of this. Knock-in forward is</p> <p>9 another type of derivative that, again, the big</p> <p>10 picture here is it would be another hedge for the</p> <p>11 XIV risk, and it looks like we had showed it to Wild</p> <p>12 Cat, we had engaged with that firm, which is another</p> <p>13 asset manager, and it didn't seem like we had much</p> <p>14 luck in finding trading partners to help us hedge</p> <p>15 some of those risks through customer trades.</p> <p>16 Q. And then "We have also not been able to</p> <p>17 buy back any more shares," and that was another</p> <p>18 strategy for reducing Credit Suisse's exposure,</p> <p>19 right?</p> <p>20 A. Right.</p> <p>21 Which we just discussed before, right?</p> <p>22 Q. Right.</p> <p>23 A. Right.</p> <p>24 Q. And you say, "Premium has blown out to</p> <p>25 greater than 1.5 percent range."</p>	<p style="text-align: right;">Page 137</p> <p>1 LEONARDO MAYER</p> <p>2 That means you are unable to buy back</p> <p>3 shares for less than 150 basis point premium?</p> <p>4 A. Up to NAV, exactly.</p> <p>5 MR. SCHNEIDERMAN: Let's go to Tab ET.</p> <p>6 THE WITNESS: Can you repeat the tab</p> <p>7 number?</p> <p>8 BY MR. SCHNEIDERMAN:</p> <p>9 Q. ET, Bates ending in 7405.</p> <p>10 A. It's Document 171?</p> <p>11 Q. No. It will be 172.</p> <p>12 (Bloomberg chat between Leonardo Mayer and</p> <p>13 Johan Drylewicz marked Exhibit 172 for</p> <p>14 identification, as of this date.)</p> <p>15 BY MR. SCHNEIDERMAN:</p> <p>16 Q. It's coming up now.</p> <p>17 A. Right, okay.</p> <p>18 Q. Have a look at this.</p> <p>19 A. Okay.</p> <p>20 Okay.</p> <p>21 Q. Do you recognize this document?</p> <p>22 A. Again, I don't recall the specific</p> <p>23 conversation, but it's an instant message -- instant</p> <p>24 Bloomberg chat between me and Johan Drylewicz, who</p> <p>25 works -- I think still works at the hedge fund.</p>

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2 MR. SCHNEIDERMAN: For the court reporter,

3 that is Johan Drylewicz, J-O-H-A-N

4 D-R-Y-L-E-W-I-C-Z.

5 Q. Does -- Mr. Drylewicz worked, at the time,

6 at Laurion Capital; is that right?

7 A. Yes. I am sorry.

8 Q. You said that that's a hedge fund?

9 A. Yes, it is.

10 Q. Okay. He starts the chat by asking if

11 there's a way to create XIV without the swap?

12 A. Right.

13 Q. And he notes that the swap is super

14 capital intensive?

15 A. Right.

16 Q. And you tell him that another alternative

17 if you need XIV is to borrow it, assuming you want

18 to short?

19 A. Right.

20 Q. And he tells you it's an expensive borrow

21 at 5 percent?

22 A. Right.

23 Q. And that's the rate that he's getting at

24 MS.

25 Is that Morgan Stanley?

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2 brokerage?

3 A. Right.

4 Q. So how do you square that with this

5 conversation that you are having with someone at a

6 hedge fund about borrowing XIV?

7 MR. WASHER: Objection to the form.

8 A. This was kind of a reverse inquiry. He

9 was kind of asking me, and I said you can borrow

10 shares, but I wouldn't know if he had actually gone

11 to borrow shares with our prime broker at the end, I

12 wouldn't know if he had, or how many he had done. I

13 was just pointing out to him what he could borrow

14 and at what rate.

15 Q. Did you have conversations like this

16 regularly?

17 MR. WASHER: Objection to the form.

18 A. I don't recall that, no.

19 Q. Do you remember this being an exceptional

20 conversation?

21 MR. WASHER: Objection to the form.

22 A. I don't recall too many conversations like

23 this, but, again, it has been some time.

24 Q. Okay. But this would be a way of gaining

25 some sense of who the participants are in the XIV

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2 A. Yes, that sounds like what he's saying,

3 yes.

4 Q. And you tell him that the Credit Suisse

5 rate should be closer to 3.5 percent?

6 A. Yes.

7 Q. So this is an example of kind of making

8 the economics of borrowing more attractive than

9 creating with a swap, right?

10 A. Well, it depends. I think for this

11 particular customer, that may have been the case

12 because it sounds like it was very capital

13 intensive, as he is saying, to hold an actual swap

14 on creation versus lending, but you know, you would

15 have to ask him exactly to see how that really

16 shaped out for him.

17 Q. Is there something particular about why

18 this would be the circumstance for him, but not

19 others?

20 A. I don't know exactly what -- how his

21 capital is allocated at the hedge funds or the

22 charges he would get.

23 Q. And one thing you mentioned before is that

24 the flow desk didn't have insight as to who was

25 borrowing XIV because that was handled by prime

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2 borrowing, right?

3 MR. WASHER: Objection to the form.

4 A. Well, I would know so far as they would be

5 considering borrowing it, but, again, had the

6 customer come in to borrow either through their

7 prime brokerage or my prime brokerage, I would not

8 if they had, or how many shares they had, or

9 anything else. All I would know is that we would be

10 lending out more shares, and I would know the tally

11 of the total shares that were being lent as a firm.

12 Q. I understand.

13 A. Unless, of course, the customer

14 volunteered that information.

15 Q. Okay. I understand you wouldn't have

16 formal confirmation about the execution of borrowed

17 shares, but this would give you some understanding

18 as to the level of interest in borrowing and who was

19 interested in borrowing, right?

20 MR. WASHER: Objection to the form.

21 A. At some level, yes.

22 Q. Okay.

23 MR. SCHNEIDERMAN: Let's go to Tab BH, H


24 as in Henry.

25 Q. And I have got just a couple more here. I

<p style="text-align: right;">Page 142</p> <p>1 LEONARDO MAYER</p> <p>2 don't think we will be too much longer.</p> <p>3 A. Okay.</p> <p>4 So 173?</p> <p>5 Q. That's right.</p> <p>6 (Email between Robert Montefiore, Mel</p> <p>7 Oechslein and Leonardo Mayer marked Exhibit 173</p> <p>8 for identification, as of this date.)</p> <p>9 THE WITNESS: Okay.</p> <p>10 BY MR. SCHNEIDERMAN:</p> <p>11 Q. Do you recognize this document?</p> <p>12 A. Again, similar to before, I don't recall</p> <p>13 this specific email, but it looks like it's an</p> <p>14 exchange on XIV revenues between Montefiore, Mel,</p> <p>15 and I from Jan. 30, '18.</p> <p>16 Q. Okay. And here, Rob is laying out a</p> <p>17 comparison of the revenues generated for VIX ETNs</p> <p>18 across different creations?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And those scenarios are created</p> <p>21 without a swap, created with a swap, and loan?</p> <p>22 A. Right.</p> <p>23 Q. And Rob states -- you asked him, what is</p> <p>24 this, and he states it's -- if you look up a couple</p> <p>25 of lines, he says, "The annualized P&Ls in each</p>	<p style="text-align: right;">Page 143</p> <p>1 LEONARDO MAYER</p> <p>2 activity in basis points when considered in</p> <p>3 isolation for those ETNs"?</p> <p>4 A. Right.</p> <p>5 Q. Okay. So this is annualized revenue under</p> <p>6 these three scenarios?</p> <p>7 A. Right.</p> <p>8 Q. And it's saying there are negative</p> <p>9 revenues for notes created without a swap for XIV?</p> <p>10 A. Yes, that's what it's saying.</p> <p>11 Q. And then there's revenues of 76 basis</p> <p>12 points for creations with swaps?</p> <p>13 A. Right.</p> <p>14 Q. And 161 basis points of revenue for</p> <p>15 lending?</p> <p>16 A. Right.</p> <p>17 Q. So lending is far away the most profitable</p> <p>18 of the three?</p> <p>19 A. That's what this suggests, yes.</p> <p>20 Q. So why would you create with swaps instead</p> <p>21 of lend at this point?</p> <p>22 A. As a customer, you mean?</p> <p>23 Q. From Credit Suisse's perspective?</p> <p>24 A. Well, we are in the -- we are fulfilling</p> <p>25 customer requests. We are not driving one or the</p>
<p style="text-align: right;">Page 144</p> <p>1 LEONARDO MAYER</p> <p>2 other necessarily. If customers want to come in to</p> <p>3 create on swap, which is what we are offering in the</p> <p>4 product, we'll do that, and if they come in to</p> <p>5 borrow with lending, we will do that as well, but</p> <p>6 from a profitability perspective, as you note, it's</p> <p>7 more profitable to lend.</p> <p>8 Q. So it was best for Credit Suisse for</p> <p>9 lending rather than creating with swaps?</p> <p>10 MR. WASHER: Objection to the form.</p> <p>11 A. Yes. This data suggests that it is more</p> <p>12 profitable to lend.</p> <p>13 Q. What would you do with this information?</p> <p>14 MR. WASHER: Objection to the form.</p> <p>15 A. What did we do with this information? I</p> <p>16 think, again, we took it onboard as we continued to</p> <p>17 review the business on a regular basis, this</p> <p>18 business and many other business lines, and we --</p> <p>19 you know, we knew that creation without swap was not</p> <p>20 profitable. We tried to limit the creations with</p> <p>21 swap to have it more extended to reduce AUM, and we</p> <p>22 would continue to lend, which was profitable.</p> <p>23 Q. Do you recall if at this time Credit</p> <p>24 Suisse was pursuing a significant number of notes</p> <p>25 through swaps?</p>	<p style="text-align: right;">Page 145</p> <p>1 LEONARDO MAYER</p> <p>2 A. At this time, January '18, if we were</p> <p>3 issuing a lot of swaps, are you saying?</p> <p>4 Q. Yes.</p> <p>5 A. I don't recall specifically.</p> <p>6 Q. Would it surprise you to know that you</p> <p>7 were?</p> <p>8 A. No.</p> <p>9 Q. Why not?</p> <p>10 A. I just -- I mean, it depended on what</p> <p>11 the -- what the business demands were at the time.</p> <p>12 We were not -- there were periods of time where</p> <p>13 there was a lot of creation, there was a lot of</p> <p>14 lending, it just depended.</p> <p>15 Q. Okay. So, I mean, would you suspect that</p> <p>16 if there was a substantial portion of notes being</p> <p>17 created with swaps rather than being lent out at</p> <p>18 that period, that it would be a reflection of</p> <p>19 reduced lending demand?</p> <p>20 MR. WASHER: Objection to the form.</p> <p>21 A. If there was lots of creation and not</p> <p>22 lending, you are saying?</p> <p>23 Q. Correct.</p> <p>24 A. Again, I think it fit different customer</p> <p>25 profiles. Some preferred to borrow, because perhaps</p>

<p style="text-align: right;">Page 146</p> <p>1 LEONARDO MAYER</p> <p>2 they couldn't create on swap, they didn't have</p> <p>3 ISDAs, and some did and preferred. So, it really</p> <p>4 depended on what customer interests were. We</p> <p>5 weren't driving the customer interests, we were more</p> <p>6 facilitating customer interests.</p> <p>7 Q. Okay.</p> <p>8 MR. SCHNEIDERMAN: Let's go to Tab AN, N</p> <p>9 as in Nancy.</p> <p>10 THE WITNESS: Okay. So Document 109?</p> <p>11 BY MR. SCHNEIDERMAN:</p> <p>12 Q. Correct, this was previously introduced as</p> <p>13 Exhibit 109.</p> <p>14 A. Yes.</p> <p>15 Okay. Did we look at this one before?</p> <p>16 Q. We did not look at this before. We looked</p> <p>17 at other discussions of acceleration, but we didn't</p> <p>18 have this before.</p> <p>19 A. Okay. So I don't remember this particular</p> <p>20 email, similar to the other ones, but I can see it's</p> <p>21 an exchange between Mel and I on some of the details</p> <p>22 of a potential acceleration event, and it's from</p> <p>23 November of '17.</p> <p>24 Q. Why would you ask Mel for this</p> <p>25 information?</p>	<p style="text-align: right;">Page 147</p> <p>1 LEONARDO MAYER</p> <p>2 MR. WASHER: Objection to form.</p> <p>3 A. I don't remember exactly what was</p> <p>4 prompting this particular email at the time, but,</p> <p>5 you know, as managing the business or any other</p> <p>6 business, we look to make sure that we are prepared</p> <p>7 for any kind of situation and risk, and while this</p> <p>8 was a remote event, I think, potentially happening,</p> <p>9 we did want to know how it would eventually play out</p> <p>10 in the event that it did.</p> <p>11 Q. What makes you say it was a remote event?</p> <p>12 A. As I said -- as we looked at before,</p> <p>13 Mr. Schneiderman, the different scenarios that we</p> <p>14 considered that where the XIV could knock out seemed</p> <p>15 pretty infrequent or remote events in the market, so</p> <p>16 nothing that we could foresee happening in the short</p> <p>17 term.</p> <p>18 Q. You are talking about that email where the</p> <p>19 ballpark was 7 and a half to 10 and a half percent</p> <p>20 movement in STX?</p> <p>21 A. Yes, yes.</p> <p>22 Q. And what makes you say that was a remote</p> <p>23 possibility?</p> <p>24 A. Those are pretty unlikely events in the</p> <p>25 market.</p>
<p style="text-align: right;">Page 148</p> <p>1 LEONARDO MAYER</p> <p>2 Q. Are they unprecedented?</p> <p>3 A. They are not unprecedented, but they are</p> <p>4 unlikely.</p> <p>5 Q. How unlikely?</p> <p>6 MR. WASHER: Objection to form.</p> <p>7 A. Well, you had -- you know, you had a down</p> <p>8 10 percent day, you know, during 2008, which was, as</p> <p>9 you know, a large crisis in the market, and since</p> <p>10 then, you know, you don't see too many 10 percent</p> <p>11 down days.</p> <p>12 Q. At the time that that email was</p> <p>13 circulated, did you have the ability to check how</p> <p>14 frequently STX has moved 7 and a half percent or</p> <p>15 more?</p> <p>16 A. We could have done some analysis, yes,</p> <p>17 some historical analysis, but, again, I am sure it</p> <p>18 would show it would be an infrequent event.</p> <p>19 Q. How many times would you estimate that</p> <p>20 would have happened?</p> <p>21 A. In what period of time?</p> <p>22 Q. Let's say since 1983.</p> <p>23 A. Well, my memory of -- I would say I know</p> <p>24 there was a large crash, as you know, in 1987. That</p> <p>25 would have probably happened then. Again, in 2020,</p>	<p style="text-align: right;">Page 149</p> <p>1 LEONARDO MAYER</p> <p>2 in 2020, we had, during COVID, a very large movement</p> <p>3 in the market, and then 2008.</p> <p>4 So over a period of 40 years, maybe it</p> <p>5 happens less than a handful of times.</p> <p>6 Q. Do you remember conducting that analysis?</p> <p>7 A. No.</p> <p>8 Q. Do you think you would have conducted that</p> <p>9 analysis?</p> <p>10 MR. WASHER: Objection to form.</p> <p>11 A. I don't recall.</p> <p>12 Q. To be clear here, we are talking about</p> <p>13 movement in individual days, correct?</p> <p>14 A. One day moves, yes. That's what the model</p> <p>15 was suggesting, yes.</p> <p>16 Q. And your estimate, sitting here today, is</p> <p>17 that it would have been less than a handful of</p> <p>18 times?</p> <p>19 A. Yes.</p> <p>20 Q. Okay.</p> <p>21 MR. SCHNEIDERMAN: Let's pull up Tab AP, P</p> <p>22 as in Paul. This was previously introduced as</p> <p>23 Exhibit 111.</p> <p>24 Q. So this is going to look very similar to</p> <p>25 the previous document.</p>

<p style="text-align: right;">Page 150</p> <p>1 LEONARDO MAYER</p> <p>2 Do you recognize it?</p> <p>3 A. I am sorry, I think I might have messed</p> <p>4 this up here. So we are back on Exhibit 111?</p> <p>5 Q. Correct.</p> <p>6 A. Okay.</p> <p>7 Right, okay. So I don't recall this one,</p> <p>8 again, specifically, but it is -- it's details on an</p> <p>9 acceleration event to Mike Ebert from Mel, copying</p> <p>10 me and Rob Sowler, on November 8th, '17.</p> <p>11 Q. My only question here is: Why did this</p> <p>12 get passed on to Mike Ebert?</p> <p>13 MR. WASHER: Objection to the form.</p> <p>14 A. On this particular -- I don't remember why</p> <p>15 it was passed on directly to him on this day.</p> <p>16 Q. Is this pertinent information for him to</p> <p>17 have?</p> <p>18 A. Again, I think as we speak about the</p> <p>19 business and any business we risk manage, we think</p> <p>20 about all potential scenarios and how we would</p> <p>21 conduct the business and manage the risk, and this</p> <p>22 was one to be aware of and know what -- how it would</p> <p>23 work.</p> <p>24 Q. Okay. Who is Matt Levine?</p> <p>25 MR. WASHER: Objection to form.</p>	<p style="text-align: right;">Page 151</p> <p>1 LEONARDO MAYER</p> <p>2 A. Matt Levine, I am sorry, I can't place</p> <p>3 that name right now.</p> <p>4 Q. He doesn't work at Credit Suisse. He's a</p> <p>5 journalist.</p> <p>6 Does that ring a bell?</p> <p>7 A. No.</p> <p>8 MR. WASHER: Objection, foundation.</p> <p>9 Q. Okay.</p> <p>10 MR. SCHNEIDERMAN: Can we pull up Tab BA.</p> <p>11 THE WITNESS: Okay.</p> <p>12 MR. SCHNEIDERMAN: And this is marked</p> <p>13 Exhibit 174.</p> <p>14 (2/9/18 email marked Exhibit 174 for</p> <p>15 identification, as of this date.)</p> <p>16 THE WITNESS: Right.</p> <p>17 BY MR. SCHNEIDERMAN:</p> <p>18 Q. Do you recognize this document?</p> <p>19 A. I don't recall this email, but I -- it's</p> <p>20 clearly something that I sent -- as it says here, I</p> <p>21 sent myself from Bloomberg to my account, and it was</p> <p>22 from February 9th, '18.</p> <p>23 And the reason I likely did that is I</p> <p>24 wanted to have time to read it later. It's a</p> <p>25 Bloomberg article detailing some of the events.</p>
<p style="text-align: right;">Page 152</p> <p>1 LEONARDO MAYER</p> <p>2 MR. WASHER: When was it written?</p> <p>3 THE WITNESS: February 9th. It was</p> <p>4 written February 9th. It's an article about</p> <p>5 XIV that I likely wanted to read.</p> <p>6 BY MR. SCHNEIDERMAN:</p> <p>7 Q. Do you recall reading this document, this</p> <p>8 article?</p> <p>9 A. No, I really don't recall it. I would</p> <p>10 have to go through it again to see what the main</p> <p>11 points were made here.</p> <p>12 MR. SCHNEIDERMAN: Okay. I think that's</p> <p>13 all that I have. I will yield the floor to</p> <p>14 Mr. Washer in case he has any questions, but I</p> <p>15 think you may be done.</p> <p>16 THE WITNESS: Okay. Thank you.</p> <p>17 MR. WASHER: I appreciate that.</p> <p>18 I have no questions, so I think we are all</p> <p>19 set.</p> <p>20 MR. SCHNEIDERMAN: Okay. Thank you for</p> <p>21 your time, Mr. Mayer.</p> <p>22 THE WITNESS: Okay. Thank you very much.</p> <p>23 THE VIDEOGRAPHER: The time is 2:27. This</p> <p>24 concludes the deposition, Thursday,</p> <p>25 February 2nd. We are off the record.</p>	<p style="text-align: right;">Page 153</p> <p>1 J U R A T</p> <p>2</p> <p>3 I, _____, do hereby certify under</p> <p>4 penalty of perjury that I have read the foregoing</p> <p>5 transcript of my deposition taken on _____;</p> <p>6 that I have made such corrections as appear noted</p> <p>7 herein in ink, initialed by me; that my testimony as</p> <p>8 contained herein, as corrected, is true and correct.</p> <p>9</p> <p>10 DATED this ____ day of _____, 2023,</p> <p>11 at _____, _____.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 _____</p> <p>18 SIGNATURE OF WITNESS</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

1	Page 154
2	C E R T I F I C A T E
3	STATE OF NEW YORK)
4) ss.:
5	COUNTY OF NEW YORK)
6	
7	I, ANITA SHEMIN, a Notary Public
8	within and for the State of New York, do
9	hereby certify:
10	That LEONARDO MAYER, the witness
11	whose deposition is hereinbefore set forth,
12	was duly sworn by me and that such
13	deposition is a true record of the
14	testimony given by such witness.
15	I further certify that I am not
16	related to any of the parties to this
17	action by blood or marriage; and that I am
18	in no way interested in the outcome of
19	this matter.
20	IN WITNESS WHEREOF, I have hereunto
21	set my hand this 14th day of February,
22	2023.
23	
24	ANITA SHEMIN, CSR
25	

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5	between Mel Oechslein and
6	Philippe Carrier copying
7	Leonardo Mayer
8	Exhibit 164 Presentation titled "VIX 96
9	ETN Product Update"
10	Exhibit 165 Email 102
11	Exhibit 166 11/2017 email chain 114
12	between Mel Oechslein and
13	Leonardo Mayer
14	Exhibit 167 11/7/17 email between 116
15	Leonardo Mayer, Mel
16	Oechslein, Rob Sowler,
17	and Mike Ebert
18	Exhibit 168 11/22/17 email between 122
19	Mel Oechslein, Michael
20	Ebert, Robert Sowler,
21	and Leonardo Mayer
22	Exhibit 169 1/5/18 email from 127
23	Michael Ebert to Paul
24	Somma, Mel Oechslein, and
25	Leonardo Mayer
26	Exhibit 170 1/5/18 email from Paul 129
27	Somma to Lisa
28	Exhibit 171 1/2018 email between 131
29	Philippe Carrier, Michael
30	Ebert, Robert Sowler,
31	Leonardo Mayer, and Mel
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6	
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8	Montefiore, Mel Oechslein
9	and Leonardo Mayer
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